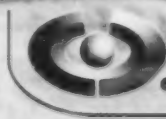


Aboriginal Peoples

Fact and Fiction

La rencontre Québécois-Autochtones



Commission
des droits de la personne
et des droits de la jeunesse

Québec



Aboriginal Peoples

Pierre Lepage
Education and Cooperation

Writing and iconographic research
Pierre Lépage
Education and Cooperation

Under the supervision of
Maryse Alcindor, director
Education and Cooperation

Collaboration
Project coordination : Nicole Pothier
Word-processing : Lucie Laliberté
Education and Cooperation

Consultation on graphics, layout, and printing
Marie-Denise Douyon, Jean-François Lejeune
Proof-reading and correction : Robert Sylvestre
Communications

Collaboration on the writing of chapter seven
Musée de la civilisation (Quebec)

Translation
Jan Jordon

Additional translation and text revision
Tom Carter

Maps
Serge Ashini-Goupil
for Communications Totem

Graphic design and production, and cover page illustration
Line Hervieux
Communications Totem

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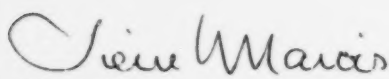
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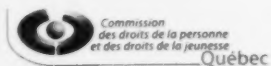
A WORD FROM THE PRESIDENT

When we launched the program of educational activities entitled "La rencontre Québécois-Autochtones, un beau défi" (The Challenge of Bringing Quebecers and Aboriginal Peoples Together) in Quebec's secondary schools a few years ago, we were certainly convinced that it was a program whose time had come, but we never could have imagined how successful it would be. The Oka Crisis had left a heavy shadow over all of Quebec society, and we were setting out against the tide of public opinion.

Thanks to a cooperation agreement with the Institut culturel et éducatif montagnais (ICEM) and the financial support of Indian and Northern Affairs Canada and the ministère de l'Éducation of Quebec, over the period of the last four years we have been able to go to more than thirty colleges and secondary schools to present intensive activities designed to raise awareness about the Aboriginal reality. These activities have reached more than 25,000 students to date.

Touring the schools allowed us to see the shortcomings of the pedagogical documents that teachers had to rely on for teaching about the Aboriginal reality. At a time when programs are being revised with an eye to educating students to become good citizens, the Commission hopes to make its contribution to the building of a better society for everyone by putting the myths and realities about Aboriginal peoples back into some sort of proper perspective. This is one of the objectives of this book, and one that dovetails with the larger objectives of promoting the *Charter of Rights and Freedoms* and ensuring that the principles and rights that it contains are respected.


Pierre Marois



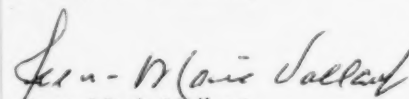
A WORD FROM THE DIRECTOR GENERAL

Throughout the history of Canada and Quebec, the First Nations have had very little visibility, and what they did have was often based on a vision drawn from folklore—until now. With the events in Oka in the summer of 1990, a negative image of the First Nations spread across Quebec. We of the Innu nation could not remain silent in the face of all of the generalizations that were circulating. The time to take action had come: we had to make ourselves, our culture, and our way of life better known.

Our communities did not have the resources to meet this challenge, so we eagerly accepted an invitation from the Commission des droits de la personne et des droits de la jeunesse (CDPDJ) to set up a joint program that was intended to raise awareness in Quebec schools about the Aboriginal reality.

Doing this called for innovative pedagogical methods. A shaputuan (a traditional Innu camp) was set up on the grounds of the schools we visited, classes were given under the big tent by Innu animators, there were shows, games, community meals, and even overnight camp-outs—all of this was done in order to create genuine and positive contact with the students. It all worked beautifully, and the experience confirmed that there is a place in Quebec for a different vision of Aboriginal peoples.

Aboriginal peoples learned the same history in school that other Quebecers learned. This work finally allows us to discover the other story—the First Nations story. It is an essential one if we are all to understand our common history.


Jean-Marie Vollant



Acknowledgements

We would like to begin by thanking Paul Rémillard, the head of Coordination des affaires autochtones at the ministère de l'Éducation, who believed in this project and supported it steadfastly. We would also like to show our appreciation to Hélène Philippe, Communications Manager for the Quebec Regional Office of Indian and Northern Affairs Canada, for her constant support for better public education about the realities facing Aboriginal peoples.

The author would like to pay tribute to the team at the Institut culturel et éducatif montagnais for rising to the exciting challenge of *La rencontre Québécois-Autochtones* by touring Quebec's secondary schools. This publication is dedicated to them. They are Ben McKenzie, Yvonne Volland, Évelyne Saint-Onge, Paul-Émile Dominique, Madeleine Dominique, and Serge Volland, as well as everyone who accompanied them over the last four years: Anne-Marie and Joseph Bernard, Marie-Louise André, Bernard Volland, Christian Volland, Kathleen Saint-Onge, Dany Volland, Jean-Yves Fontaine, Mathieu Paul, Denis Hervieux, and a number of others. A special thanks goes out to Luc André, the former director of the Institut culturel et éducatif montagnais (ICEM), who had the vision to put this team from the Innu nation to work to bring our peoples together.

The author would also like to express his gratitude to the following people for their comments and encouragement: Jean-Marie Volland, director general of ICEM, as well as Sylvie Vincent, Paul Charest, Michel Noël, Pierre Trudel, Michèle Rouleau, Rémi Savard, Marie Léger, Nicole O'Bomsawin, Louise Goupil, Marius Langlois, Michèle Audette, Sylvie Loslier, Muriel Garon, Pierre Bosset, Roland Duguay, André Lepage, and André Loiselle. Carole Fiset also deserves special mention: without her this book would never have seen the light of day.

We would also like to thank the Musée de la civilisation in Quebec City for granting us permission to reproduce the brief presentations of each of the Aboriginal nations that appear in the first part of chapter seven. These were drawn from texts that were used in its exhibition entitled *Encounter with the First Nations*. The journal *Relations* also allowed us to reprint two previously published texts.

We have been able to give a prominent place to photographs and illustrations thanks to the cooperation of Jacques Morin of the Archives nationales du Québec in Quebec City, Line Pichette of the Coordination des affaires autochtones of the MEQ, Martin Legault of Natural Resources Canada, Gilles Durocher and Martin Lantier of the National Archives of Canada, Mario Robert of the City of Montreal, Pierrette Blais of the Société d'histoire d'Amos, Louise Mondoux of Tourisme Québec, Benoît Thériault of the Canadian Museum of Civilisation, Pierre Bonnet of the CNTU and the Corporation des fêtes de la Grande Paix de Montréal. The efforts of the CDPDJ's Diane Dupont and Danielle Robichaud have been greatly appreciated. Michèle Morel, Jean-Yves Fontaine, Pierre Grégoire, Michèle Audette, Madeleine Dominique, Gérald McKenzie, and Pierre Trudel have all been kind enough to allow us to use some of their personal photographs. We would also like to express our gratitude to Johnny Vachon of Malioténam for allowing us access to personal documents, and to the Bibliothèque publique et universitaire de Genève for the same reason.

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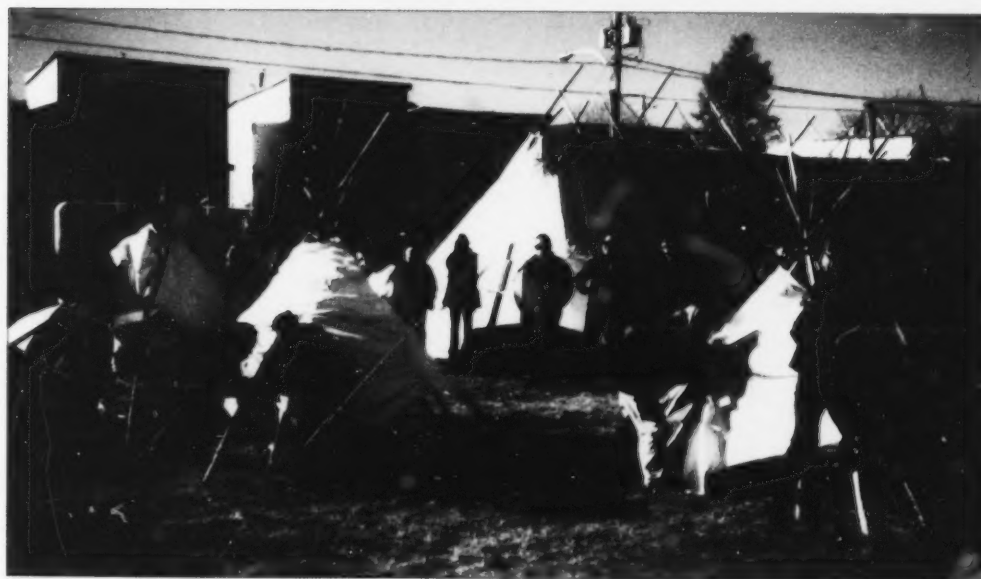
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*Students of École
secondaire Vanier in
Quebec City participate
in a tepee-raising
competition in front of
a shaputuan erected
on the school grounds.*

*Photo: Rencontre
Quebecois-Autochtones,
Pierre Lepage*



Preface

It gives me great pleasure to write the preface to this work that the Commission des droits de la personne et des droits de la jeunesse is presenting in the aim of bringing First Nations peoples and Quebecers together. I am happy to do this in my role as Regional Chief of the Assembly of First Nations, but I am equally happy to be involved in this as an Innu from the North Shore who has spent a good part of his life outside his community.

"La rencontre Québécois-Autochtones, un beau défi" is a wonderful subject: the title alone speaks volumes. What can we say about an encounter that has been going on for four hundred years and that still presents such a challenge? Can we say that it has not yet really taken place? From a certain standpoint, this would appear to be true; we hope to be able to say that this book contributed to making this meeting finally come about.

From another standpoint, we can say that although they have not come to know each other yet, the First Nations and Quebecers live on the same territory and thus have had to develop a kind of mutual understanding. "Understanding" might be too strong a word, as more often than not we find ourselves in the realm of preconception, gossip, and rumour: in short, "misunderstanding" might be a better one.

But things could be worse. When we ignore something completely it is easy to develop a completely false impression of it, and indeed some of the prejudice toward Aboriginal peoples arises out of ignorance. But generations of non-Aboriginal Quebecers have learned all sorts of things about Aboriginal peoples, and they learned them at school and most often at an age at which students have not yet begun to question what they read in their school books. What most of these Quebecers (including many who would later become journalists or even politicians) learned about the First Nations, they learned in history class—but the history certainly had a lot of gaps in it. What do they know about the First Nations before the arrival of the Europeans, about colonialism and its effects on the First Nations, or about how the situation of the First Nations changed as the political structures of Canada and Quebec changed? Where can the First Nations be found today? What are they claiming, and why? What lies behind their demands?

The book being presented here by the Commission des droits de la personne et des droits de la jeunesse represents a significant effort to correct part of the misunderstanding for which we all bear some responsibility. The Commission has been working in close cooperation with the Institut culturel et éducatif montagnais on this, and I am convinced that this cooperation is beginning to bear fruit, just as I am sure that the same will be true of this work. That is why it gives me such great pleasure to write the preface to this book.

*Ghislain Picard, Regional Chief
Assembly of First Nations of Quebec and Labrador*

*Secondary school students especially
enjoy elder Ben McKenzie and his
storytelling and drumming.*

*Photo: Rencontre Québécois-Autochtones,
Pierre Lepage*



Introduction

We are about to venture into the little-known territory of relations with Aboriginal peoples, from the French Regime (and the period of the British Conquest that followed it) of long ago to our own times.

This long span of events is essential to any understanding of contemporary relations between Quebecers and Aboriginal peoples, yet it has been characterized in our school books by a mysterious phenomenon: the virtual disappearance of the Aboriginal peoples from the historical landscape!

This mysterious disappearance was noted at the end of the 1970s by two researchers who were interested in the question of how Amerindians were presented in Quebec textbooks. Sylvie Vincent and Bernard Arcand came to the conclusion that the texts being used conferred a historical role to the Amerindians during the period of the colonial wars, but that after 1760 the Amerindians were no longer either allies or enemies, which meant that military alliances and the fur trade no longer had to be controlled as they had had to be controlled previously. There were no longer any Amerindians who had any political importance, and they literally disappeared from the page (Vincent and Arcand 1979, 223).

Most people found the wake-up call of the summer of 1990 a brutal one, leading the Commission des droits de la personne et des droits de la jeunesse to entitle its report on these events *Le choc collectif* (*The Collective Shock*). There was amazement, incomprehension, and rage; finally, the entire range of collective emotions was experienced, and public discontent probably reached its height in the middle of the 1990s. It was in this context of deteriorating relations that one could hear Quebecers speak openly and without shame of "privileged Indians" who exploited the system and didn't pay taxes. Far from being oppressed, the Aboriginal peoples were suddenly thought to have benefits that no-one else had.

But underlying all of the biting remarks like these were fundamental questions important to the future of relations between Quebecers and Aboriginal peoples. How can one category of citizens claim to have distinct rights? Do Aboriginal peoples really enjoy all of the benefits they claim, and does that mean that they have more rights than others have? Don't distinct rights and benefits damage the concept of the right to equality that our charters of rights and freedoms enshrine? Wouldn't we expect everyone in Quebec to have the same rights? In an era of globalization, shouldn't Aboriginal peoples integrate into Quebec society in order to help make it stronger? Weren't land claims settled a long time ago? Don't they pose a new threat to the territorial integrity of Quebec?

In its 1996 report, the Groupe de travail sur l'enseignement de l'histoire (the working group on the teaching of history) explained, quite correctly, that all of this was nevertheless useful, because without historical reference points the contemporary situation of the Aboriginal peoples could not be understood and answers to these questions would not be found. It is for this reason that this book, which is intended for secondary school teachers, pays particular attention not only to this long period of history that has been erased from the collective memory but also to popular beliefs that are prevalent in our society today.

In the first part of this work, we will take a different look at the relations that existed between the European and the Aboriginal peoples at the time of the French Regime, and then we will turn our focus to the crucial period just after the British Conquest: a look into the text of the *Royal Proclamation of 7 October 1763* will reveal elements that are essential if we want to be able to understand contemporary Aboriginal issues. We will then examine a major shift in the administration of Indian affairs that occurred just as the Aboriginal nations were losing their military and commercial prominence. In spite of the willingness to protect the Aboriginal peoples that the king had expressed in the *Royal Proclamation of 1763*, this same protection was invoked as the justification for deciding what was good for them. Thus began a dramatic period, crucial to any understanding of the *Indian Act* (which remains in effect to this day), marked by a restrictive guardianship that reduced the peoples of the First Nations to the status of minors. Following this, we will see that in spite of the important progress that has been made toward Aboriginal autonomy, the Aboriginal peoples who live on reserves are denied certain rights even to this day, and this will allow us to understand why the promise of governmental autonomy inspires such hope.

We will then investigate the territorial treaties and land titles (the treaties of Upper Canada, the Robinson Treaties, and the numbered treaties that came after Confederation) that will allow us both to demystify modern land claims and to better understand how these came about. We will approach this from a perspective of sharing and cooperation, and by doing so we should be able to dissipate many commonly held concerns about the future.

Some comparative data will then allow us to discover the true face of Aboriginal communities and the especially worrisome situation facing Aboriginal youth. We will also become aware of the Aboriginal reality, and especially its richness and diversity, via a brief presentation of each of the Aboriginal nations living in Quebec. This presentation (in which these nations collaborated) was drawn from the texts of the permanent exhibition entitled *Encounter with the First Nations* at the Musée de la civilisation in Quebec City. We have included information on the Métis and non-status Indians, as well as on the situation of the growing number of Aboriginal persons living in urban areas. Finally, some examples should reassure us that in spite of any differences, Quebecers and Aboriginal peoples share many aspirations and interests. There are encouraging indications that a common future, marked by mutual respect and harmony, is possible.

Chapter 1

ENDURING MYTHS

Weren't the Aboriginal peoples conquered? How? And weren't there a few colonial wars, with their winners and losers? We have all seen the Hollywood westerns; even if things did not happen the same way in Canada, we still tend to think that the fate of the Aboriginal peoples must have been decided in 1760.

England clearly scored a definitive victory in North America, so there had to have been a conqueror. And if the Aboriginal peoples were conquered, shouldn't they just have agreed to integrate and bend to the rules of the majority? There are many who take this view.

Others express the idea that Aboriginal societies had little to offer the Europeans and that their backwardness made them inferior to the societies that invaded America. For those who hold this view, it was inevitable, and even desirable, that Aboriginal societies should abandon their ways of life and integrate into Western society—an important step in their progress toward civilization. For those who hold this view, all of this seems self-evident.



Title: *Sauvage du Canada*
(Savage of Canada), 1788

Author: Desjais, Archives nationales du Québec, Québec City

CONQUEST AND THE OBLIGATION TO ASSIMILATE

The idea that the Aboriginal peoples were conquered is deeply rooted in the collective imagination of Quebecers and probably came from the textbooks of yesteryear. The history of Canada showed us an illustration of Jacques Cartier erecting a cross at Gaspé in 1534, thus taking possession of the territory on behalf of the King of France. We should ask ourselves, however, if we may have placed too much importance on this illustration. It is not at all certain that planting a few crosses throughout the territory should have been enough to ensure France's sovereignty over the Amerindian and Inuit lands and societies.

The French would clearly have liked to make the Amerindians good French subjects. At first, France's objective was to subject the Aboriginal peoples to its authority and assimilate them. But this policy was a failure and had to be abandoned. Things were to take place very differently out on the land.

It was, for the most part, commerce—the fur trade—that shaped relations between the French and the Amerindians. This activity required the French to cooperate and maintain neighbourly relations with the Amerindian trap-



Should planting a few crosses, such as this one Jacques Cartier erected in Gaspé in 1534, and as our history books have so often shown us, throughout the territory have been enough to ensure France's sovereignty over the Amerindian and Inuit lands and societies? Hardly!

National Archives of Canada, C 3278

pers and traders. The fur trade could not flourish if the French dominated and subjugated these communities. There was only one way to proceed: the French would have to befriend and maintain good relations with the Amerindians. Rather than proceeding by conquest and by force, the two peoples would have to forge trade and military alliances and sign many peace and friendship

treaties to solidify their relations. This was a good thing, and an aspect of our history that we can recall with pride.

COOPERATION RATHER THAN DOMINATION

[TRANSLATION] "The fur trade differs from the other systems of colonial exploitation. Contrary to agriculture and industry, which necessitate disruption of the environment, land ownership and rights-of-way, the fur trade requires the conservation of the environment and cooperation with local populations. This cooperation is somewhat at odds with the prevailing colonial strategy of domination. At no other time in history were Europeans so close to the environment and the Indians. From this forced osmosis, an original character, caught between two cultures, was born: the clerk, the *coureur de bois*, the trapper—the 'fur men' who could not control production without maintaining friendly relations with the Indians, relations that were all the closer since they had to confront unknown natural surroundings.

(Jacquin 1996, 13)

The signing of these alliances and treaties clearly implied that these peoples were recognized, at least politically, as equal partners who were the masters of their territories. The Aboriginal peoples did, in fact, exercise sovereignty over lands newly "discovered" by the Europeans. And if the fur industry was to be nurtured, it went without saying that the Amerindians had to remain free to use their own territories.

And so the Europeans had to deal with "allies" rather than "the King's subjects." Under the French regime, the Amerindians were not subject to taxation, nor were they subject to French penal or civil legislation. Furthermore, at the time of the capitulation of Montreal in 1760, the French governor,

Vaudreuil, demanded that his English counterpart protect these Aboriginal allies. Article 40 of the *Capitulation Act of Montreal* is eloquent in this regard, stating: "The Indian allies of his most Christian Majesty, shall be maintained in the Lands they inhabit; if they choose to remain there; they shall not be molested on any pretence whatsoever, for having carried arms, and served his most Christian Majesty; they shall have, as well as the French, liberty of religion, and shall keep their missionaries."

ALLIES RATHER THAN THE KING'S SUBJECTS

[TRANSLATION] "It was implied that at the Conquest, the Indians, who were subjects of the King of France, would become subjects of the King of England. The *Capitulation Act of Montreal* set out that the Indians, allies of His Most Christian Majesty, would remain on the lands they inhabited, if they chose to remain on them. Moreover, history shows us that, from Champlain to Vaudreuil, the French authority in America never attempted to subjugate the Amerindians against their will, since alienating them would have meant for the French the end of their lucrative fur trade, of which the Amerindians constituted one of the most significant driving forces."

(Dionne 1983, 11)

Watercolour of an 18th-century Algonquin couple
(artist unknown)

Gestion des documents et archives, City of Montreal



Moreover, it is interesting to note that during the period preceding the capitulation, several Amerindian nations were anxious to affirm their neutrality in the war between the French and the English. A *wampum* belt, preciously conserved by the Amerindians since this period, attests to this. Unfortunately, our history textbooks accorded little importance to Amerindian archives.

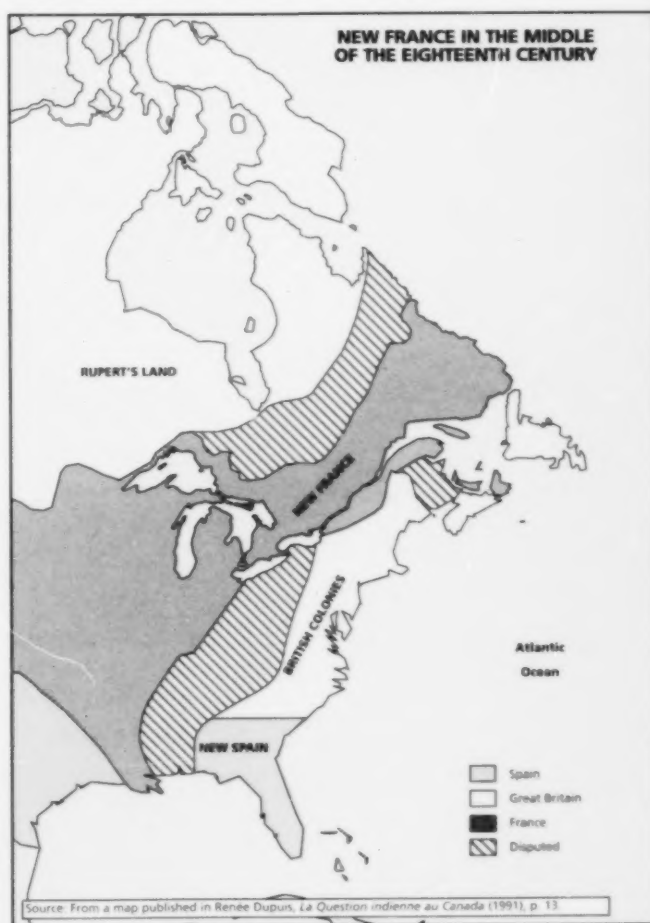
So it was the French who were conquered in 1760. Were the French and their descendants required to integrate and assimilate with the English as a result? History has shown us that this was not the case at all. The French were able to maintain their customs, their religious tradition and their own institutions, as well as their legal tradition, derived from the French civil code. If this was so, why should the Aboriginal peoples, who were not conquered in the war, have been required to assimilate?

SAVAGERY AND HIGHER CIVILIZATION

As a result of a serious lack of understanding of Aboriginal civilizations, Aboriginal peoples have often been seen as primitive nomads, so disadvantaged that they welcomed the newcomers with open arms. We have, unfortunately, considered them as savages to whom we imparted everything.

We often forget that the truth was that the French colony in North America needed the Aboriginal peoples to survive because its population was low—numerically lower than the English colonies—and focused primarily, as we have already stated, on the fur trade. The sociologist and historian Denys Delâge affirms that [TRANSLATION] "in the inter-imperial conflict between the French and English empires, the English empire benefited from a stronger navy, better prices and, above all, the success of its emigration to North America. Outclassed, the French had no other choice but to draw their strength from an alliance with the Aboriginal nations. This alliance constituted a decisive factor in the ability to maintain a French colonial enterprise in America despite an enormous numerical disadvantage compared with the British colonization" (Delâge 1991). This is a very different reading of our history.

But above all, New France was an immense territory, extending from Acadia to New Orleans. It was unfathomable that the presence of a few Frenchmen and a few small forts erected here and there could have maintained this "French empire" on the continent. In reality, New France corresponded



to the territory covered by the set of alliances with the Aboriginal nations. Of this vast network of alliances, we now acknowledge that the relationship was reciprocal and that the maintenance of good relations was both the rule and an imperative, especially for the fur trade.

[TRANSLATION] "The traders learned the Aboriginal languages and customs and carefully maintained the good dispositions of their clients to incite them to trade the greatest possible number of furs. The agents who went to live among the Indians often adopted Indian ways of life, married Indian women, and joined the Indians to hunt, fish and wage war" (Delâge 1991).

The Aboriginal peoples, far from living in unenviable conditions and wanting to integrate and assimilate with the French colony, fascinated the Europeans. For example, at one time mixed marriages were performed somewhat to the consternation of French society. Indeed, as Mother Marie de l'Incarnation observed, it was easier to make an Amerindian out of a Frenchman than to attempt the reverse.

BIRTH OF A CANADIEN IDENTITY

In many respects the influence was reciprocal, and this clearly made a specific contribution to a real *Canadien* identity that was distinct from that of the French from France. The ability to adapt to winter, familiarity with geography, flora and fauna, and the mastery of guerrilla warfare long ensured the superiority of the *Canadiens* over the British despite their numerical disadvantage (Delâge 1991). It is amazing to realize that the *Canadien* could have had so much Amerindian in them.



Mathieu André, nicknamed Mestenapeu ("The Big Man"), was honoured in 1985 for his role in the discovery of the iron-ore deposits on the North Shore and in Labrador.

Photo: Pierre Grégoire

CONTRIBUTIONS AND LITTLE-KNOWN FACTS

In 1985, a Montagnais from the Schefferville region was honoured for his participation in the discovery of large iron-ore deposits on the Labrador plateau. Mathieu André, a trapper and hunter, gathered samples of high-grade ore during his hunting expeditions. In 1937, he reported the discovery of these samples to the geologist J. A. Retty. Intense prospecting followed, encouraged by the industrial thrust of the Second World War and in 1947 another Montagnais named Pierre McKenzie contributed to the discovery of the deposit of Schefferville located on the hunting ground of his family. In 1950, the Iron Ore Company (IOC) undertook the construction of the mining town of Schefferville. In the same year, the IOC began constructing a 600-km railway to transport the ore between Schefferville and the port of Sept-Îles. Once again, a number of Amerindians contributed [TRANSLATION] "to the initial surveying and clearing work in this region, which they knew to perfection" (Radio-Québec 1984, 39–40).

During the 1950s, these discoveries and the mining of major iron deposits on the North Shore and in Labrador would even justify the construction of the St. Lawrence Seaway. Thus, Quebec, along with several Great Lakes industrial cities, was to experience enviable prosperity.

Exploration and the discovery of land and its resources could not have been achieved without the contribution of the Aboriginal peoples—and not only at the very beginnings of the colony. Less than fifty years ago, a Montagnais from the Schefferville region made a important contribution to the discovery of iron deposits in Labrador and along the North Shore. The industrial prosperity that resulted from this discovery can certainly be attributed at least in part to that Montagnais. The Montagnais nation, however, derived very little from this contribution, particularly in terms of employment and economic development.

We may owe much more to the Amerindians than we realize. New foods, from maple syrup to squash, beans, corn, and even tomatoes, and medicinal plants are underestimated contributions. It is almost impossible to believe that the very idea of the equality that lies at the heart of our charters of rights and freedoms could have been influenced in part by the Amerindians. Amerindians have contributed to our sporting traditions as well. Authors have pointed out that colonists followed the example of the Aboriginal peoples [TRANSLATION] "and hence learned to develop a team spirit that was not valued in European games" (Côté, Tardivel, and Vaugois 1992, 130).

As for diplomatic protocol, we would be wrong to think that the French and the English were able to impose their own procedures on the Amerindians. History has shown us that, contrary to what we have been taught, the diplomatic protocol that long governed relations between Europeans and Amerindians remained essentially Aboriginal in nature, even if it was amended a few times. This was particularly evident at the time of signature of the Great Peace of Montreal, an auspicious moment in Franco-Amerindian relations. When this treaty was signed, in 1701, 40 Amerindian nations and 1,000 Amerindian ambassadors assembled in Montreal at a time when the city had only 3,500 inhabitants. The French authorities agreed to respect every aspect of the numerous subtleties of Amerindian diplomacy (Havard 2001).

THIRTY-THREE MOHAWK WORKERS PERISH IN THE COLLAPSE OF THE QUEBEC BRIDGE

On August 29, 1907, the Quebec Bridge, which was still under construction, collapsed. Seventy-six workers lost their lives in the catastrophe. Among them, 33 were Mohawks from Caughnawaga (now Kahnawake), 26 were Canadians and 17 were Americans (L'Hébreux 1986, 61–63).

*The collapse
of the Quebec Bridge
in 1907*

*Archives nationales
du Québec à Québec, Québec City*



Renowned for high-steel construction, Mohawks have participated in most of the major projects in North America, including the Victoria Bridge in Montreal, the Quebec Bridge, the Empire State Building and the World Trade Center in New York, and many more—a contribution that deserves to be better known.

In a book devoted to the history of the Quebec Bridge, an early worker attested to the good reputation of the Mohawk workers and their families:

[TRANSLATION] "I knew several Indians who worked on the bridge. About fifteen families spent the summer with us in New Liverpool, and they were good people. The Indians enjoyed an excellent reputation and were good workers. Even though a lot of alcohol was sold at the time, the Indians demonstrated exemplary sobriety. The Indians of today have reason to be proud of their ancestors" (Georges Charest, cited in the preface to L'Hébreux 1986, 13).

WHAT WE OWE THE AMERINDIANS

Democracy and Equality

The anthropologist Jack Weatherford wrote that the modern notion of democracy, based on principles of equality in an egalitarian state with separation of powers, is a product of the blend of political ideas and the European and Indian institutions that prevailed on the Atlantic coast from 1607 to 1776. He went on to say that "[m]odern democracy, as we know it today, is as much the legacy of the American Indians, particularly the Iroquois and the Algonquians, as it is of the British settlers, of French political theory, or of all the failed efforts of the Greeks and Romans."

(Weatherford 1988)



An engraving showing a lacrosse match in 1872 between Mohawks of Akwesasne and the Shamrock Club of Montreal

L'Opinion Publique, collection of Pierre Lepage

Sports

[TRANSLATION] "Among the Amerindians, the sports tradition goes back a long way, and athletic prowess has always been a source of pride. When the Europeans arrived on the continent, the Aboriginal peoples played hundreds of outdoor games, including some that could have up to 200 participants.

"Moreover, Warren Lowes maintains that the Europeans developed their love of sport and healthy competition when they came into contact with the Aboriginal peoples. Without pushing this too far, it should be noted that prior to the voyages of Columbus, Europeans played sports that were very different from the sports they play today. Before the discovery of the Americas, Europeans were primarily familiar with three types of games: intellectual games—chess, cards, charades, and checkers—which were mentally stimulating; games requiring physical dexterity—fencing, archery and javelin—which were closely related to the art of war; and games involving man's domination over animals—such as hunting with hounds, dogfights, cockfights—and fights between other animals.

"Given this, the first European observers were very surprised at how the Amerindians spent their leisure time. The number and especially the ardour of the participants, as well as the atmosphere of collective excitement and joy surrounding each sporting event, never failed to impress them. Settlers followed their example and learned to develop a team spirit that was not valued in European games.

"It can truly be said that North Americans owe part of their love of the outdoors and competitive sports to their Amerindian companions."

(Côté, Tardivel, and Vaugeois 1992, 129–130)

Before the Europeans arrived, Aboriginal societies were organized societies that had political systems and complex commercial trade systems. The Aboriginal societies were—and still are—neither inferior nor superior to other societies. They have their own intrinsic character. Our failure to understand these societies has long prevented us from assessing their grandeur and complexity, which extend to their systems of land possession, their intimate relationship with the land, knowledge of fauna and flora, and much more.

LEARNING CONTEMPT:

THE HISTORY TEXTBOOKS OF YESTERYEAR

Up to the 1960s, the textbooks used in Québec schools conveyed a less-than-glowing picture of the Aboriginal peoples. In particular, this is the case of the textbook written by Fathers Farley and Lamarche, which was highly successful in Québec. Their history of Canada was read for over thirty years by thousands of students (Smith 1974).

Portrait of the Indian

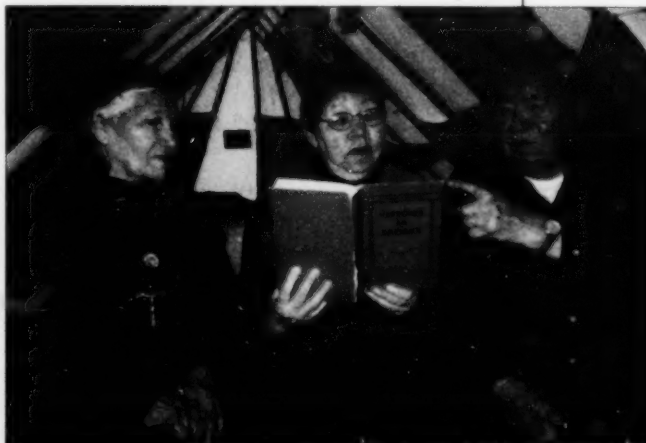
[TRANSLATION] "The American Indian was generally strongly built, tall and muscular, and had very acute senses. Despite his hard features and his bony face, he was often good-looking on the whole. He painted unusual designs on his body and face and often used very painful processes to make them adhere to his skin. These tattoos served as both decoration and protection against the cold.

"Morally, the Indian had a certain superficiality, which nonetheless endeared him to the white man. He willingly endured deprivation, cold and hunger, and he often manifested admirable courage when confronted with death. He was very cordial in extending his hospitality. He was sensitive to the trials and sufferings of his neighbours, willingly offering them his own possessions to help them out.

"But these qualities could not mask very serious defects. The Indian had boundless arrogance, believing himself to be much superior to the white man, and this disposition often prevented him from accepting civilization and the Gospel.

"The Indian had a sensual nature. He easily slipped into immorality. His taste for alcoholic beverages was another one of the principal obstacles to the work of the missionaries. Finally, he had no moral strength and no character..." (Farley and Lamarche 1945, 13-14).

First published in 1934, by 1944 this textbook had become virtually the only history of Canada used at the senior secondary levels (Smith 1974). Up to the 1960s, *L'Histoire du Canada* by Fathers Farley and Lamarche was seen as "the history textbook par excellence." The extract provided above says a great deal about the contempt that was transmitted about the First Peoples as well as the extent of the ignorance about them.



Looking at the textbook of Canadian history written by Fathers Farley and Lamarche, Marie-Louise André of Matimekossh, Madeleine Dominique of Betsiamites, and Ben McKenzie of Maliotenam are astounded by the contemptuous image of Aboriginal peoples that it transmitted to several generations of Quebec's students.

Photo: Madeleine Dominique

After the Conquest, the British authorities acknowledged the military and strategic importance of the Aboriginal peoples as well as the importance of maintaining good relations with them, as the French had done. That was the only way to maintain peace in the colonies. In the next chapter, "Discovering Ancestral Rights," we will see how the first constitution of the country, the *Royal Proclamation of 1763*, confirmed that the Aboriginal nations enjoyed special status and significant rights, and these remain important to the present day.

SUPERIORITY COMPLEX?

A MICMAC CHIEF TEACHES THE FRENCH A LESSON

The Chief of the Gaspesians responded to Father Le Clerq, who spoke on behalf of some Frenchmen when he invited the Micmac to build houses and live in the French way, in the following terms:

[TRANSLATION] "I am very surprised that the French have as little sense as they appear to have,

based on what you have just told me about them and their desire to persuade us to transform our poles, our bark and our huts into stone and wood houses as high as trees, as they say. How utterly ridiculous! Is it necessary for men five or six feet tall to have houses that are sixty or eighty feet high?



An 1878 engraving of a Micmac canoe on the Restigouche River

*L'Opinion publique,
collection of Pierre Lepage*

For you know very well, Patriarch, that our houses have all the conveniences and that they offer the same benefits as yours do, such as providing a place to sleep, drink, eat, and even enjoy ourselves with our friends when we so wish."

Then addressing one of the Frenchmen present:

"And that is not all. My brother, do you have as much skill and sense as the Indians, who carry their houses and huts with them so that they can settle anywhere they like, independently of any seigneur? You are not as brave or valiant as we are because when you travel you cannot carry your buildings on your shoulders; therefore, you must construct new dwellings whenever you move or else live in borrowed houses that you don't own. We are protected from all this inconvenience, and we can always say more truthfully than you that we are always at home, because we can easily build huts wherever we go, without asking permission of anyone.

"You criticize us quite wrongly in saying that our country is a small hell compared to France, which you compare to paradise on earth, especially since it provides you, you say, with all sorts of provisions in abundance; you also tell us that we are the most miserable

and unhappy of all men, living without religion, without civility, without honour, without society, and, in a word, without any rules, like the animals in our woods and forests, deprived of bread, wine and a thousand other delicacies you have in excess in Europe.

"Well, my brother, if you do not yet know the real feelings that we Indians have about your country and your entire nation, it is simply because I am telling you about them for the first time today. I therefore urge you to believe that as miserable as we appear to be in your eyes, we nonetheless consider ourselves much happier than you, because we are very satisfied with the little we have; and once again I believe you are very wrong if you profess to persuade us that your country is better than ours. For if France, as you state, is a little paradise on earth, why do you leave it? And why do you abandon wives, children, relatives, and friends? Why do you risk your life and property every year and, regardless of the season, venture recklessly into the storms of the sea to come to a foreign, barbarian country that you consider to be the poorest and most miserable in the world?

"Since we are fully convinced that the opposite is true, we would certainly not take any pains to go to France, because we rightly comprehend that we would find very little satisfaction there, seeing through experience that the French leave every year to seek wealth on our coasts. We also believe that you are incomparably poorer than we are and that you are simply companions, valets, servants, and slaves, as much as you appear to be masters and great captains, since you prize our old rags and our wretched, discarded beaver dress that you find here, and since you fish for cod in these parts, in order to relieve your misery and the poverty that overwhelms you. We find all our wealth and conveniences at home, without problem and without exposing our lives to the dangers you face every day in your long expeditions at sea; and we admire, offering you compassion as we rest comfortably, the concern you show and the care you take in loading your ships; we even see that all your people generally live only on cod: cod in the morning, cod at noon, cod in the evening, nothing but cod, even to the point that, if you want something good to eat, we must provide it, and you are obliged to beg the Indians you hold in such contempt to go hunting so that you can have a good meal.

"Now, tell me, if you have any sense, which of the two is the wiser and the happier: he who works incessantly and only just manages after much effort to find something to eat or he who rests comfortably and finds what he needs in the pleasure of hunting and fishing? Then learn, my brother, once and for all, since I must open my heart to you, that there is no Indian who does not consider himself infinitely happier and more powerful than the French."

(Cited in Vachon 1968, 87-91)

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A Geological Survey of Canada team with their Amerindian guides at Lac Chibougamau in 1892

Photo: A. P. Low, Courtesy of the Geological Survey of Canada



Chapter 2

DISCOVERING ANCESTRAL RIGHTS

The year 1760 marked England's victory over the French in North America. At that time, King George III issued his instructions on the administration of the new colonies by means of an official document, the *Royal Proclamation of 1763*. This edict of the king and the various treaties concluded with the Europeans are constantly cited by the Aboriginal peoples in their movement to assert their ancestral rights and their distinct status.

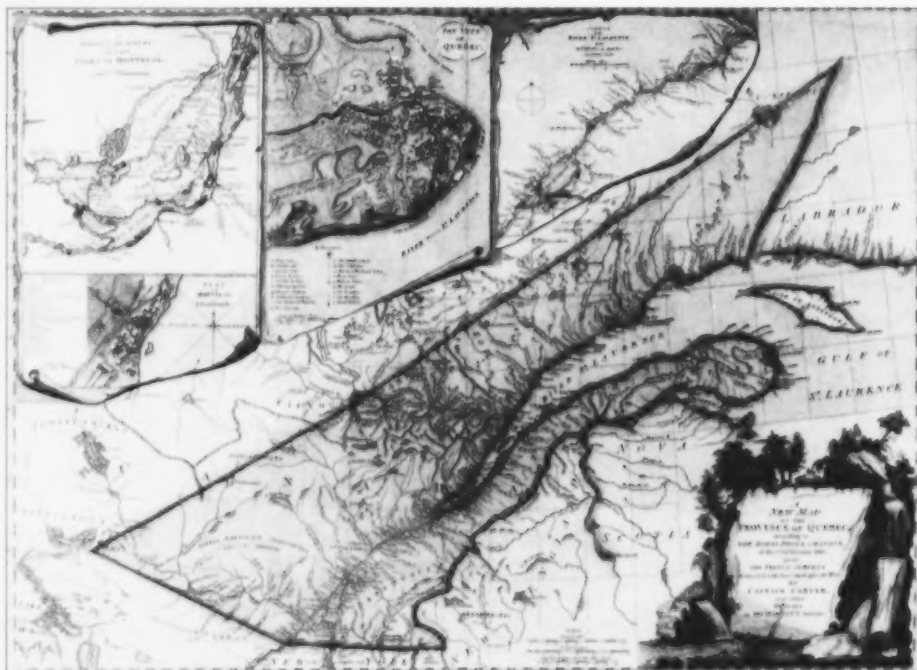
Should the Aboriginal peoples be referring to such old documents? Some would say that it is opportunistic to resort to dusty old texts like proclamations and treaties. Nothing could be further from the truth.

THE ROYAL PROCLAMATION AND THE DOCUMENTS OF THE PERIOD

The *Royal Proclamation of 1763* was actually the country's first constitution. A constitution is a set of basic texts that determine a country's form of government, and hence the Proclamation contains the historical foundations or basis of our relations with the Aboriginal peoples. In the eyes of the British, these peoples were of the utmost importance, and for this reason more than a third of the Proclamation is devoted to a detailed description of relations with the Aboriginal peoples.

Moreover, the highest courts in the land have often referred to the Proclamation as the "Magna Carta," the Great Charter of Rights of the Aboriginal peoples. Many Aboriginal chiefs have also considered it as such.

Although certain provisions of this royal edict are no longer



The province of Quebec following the Royal Proclamation of October 7, 1763

A map by Jonathan Carver, published in *The American Atlas*, London, 1782

valid today (the limits of the colony of Quebec as it existed in 1763, for example), the provisions concerning Aboriginal peoples have never been abolished. Hence, in legal jargon, they still have force of law in Canada. In addition, the treaties, which we will come back to later, were derived largely from instructions expressed by the king in this official document.

Given the importance of the Proclamation, it is not surprising that recent texts make reference to it. The *Canadian Charter of Rights and Freedoms*, enacted in 1982, for example, speaks of the "rights or freedoms that have been recognized by the *Royal Proclamation of October 7, 1763*" and the "rights or freedoms that now exist by way of land claims agreements" (s. 25). In addition, the Canadian Constitution of 1982 recognizes and affirms the "existing aboriginal treaty rights of the aboriginal peoples of Canada..." (Part II of the Constitution).

In short, the documents of the period, regardless of their vintage, are still current. Recent documents have confirmed their value and importance as the constitutional basis of our relations with the Aboriginal peoples. Therefore, the Aboriginal peoples are not referring to them opportunistically. They are right to refresh our memories.

EXTRACTS FROM THE ROYAL PROCLAMATION

7 OCTOBER 1763

"... And whereas it is just and reasonable, and essential to our Interest, and the Security of our Colonies, **that the several Nations or Tribes of Indians** with whom We are connected, and who live under our **Protection**, should not be molested or disturbed in the Possession of such Parts of Our Dominions and Territories as, not having been ceded to or purchased by Us, are reserved to them, or any of them, as their Hunting Grounds...

"And whereas great Frauds and Abuses have been committed in purchasing Lands of the Indians, to the great Prejudice of our Interests and to the great Dissatisfaction of the said Indians: In order, therefore, to prevent such Irregularities for the future, and to the end that the Indians may be convinced of our Justice and determined Resolution to remove all reasonable Cause of Discontent, We do, with the Advice of our Privy Council strictly enjoin and require, that no private Person do presume to make any purchase from the said Indians of any Lands reserved to the said Indians, within those parts of our Colonies where We have thought proper to allow Settlement: **but that, if at any Time any of the Said Indians should be inclined to dispose of the said Lands, the same shall be Purchased only for Us, in our Name, at some public Meeting or Assembly of the said Indians, to be held for that Purpose by the Governor or Commander in Chief of our Colony respectively within which they shall lie...**" (Royal Proclamation of 1763; our emphasis)

But what is so important about this precious 1763 document? Above all, the Proclamation acknowledges Aboriginal groups as organized societies with which treaties must be negotiated. The key elements of the document are as follows: the acknowledgement of the status of "nations and tribes," and thus as politically distinct groups; the acknowledgement of the Crown's responsibility to provide "protection"; and the establishment of a treaty procedure to obtain "consent" for land settlement.

Thus, the wishes expressed by King George III would give rise to the conclusion of numerous treaties and deeds of conveyance affecting Aboriginal lands. This was precisely what would happen after the creation of the Canadian Confederation in 1867, for such a vast country could not be established without negotiations with and even a form of consent from the Amerindian nations occupying the territory. We will see a little further on that this "consent" was very relative and most often obtained through confusion and ignorance. Despite this, the construction of the railway, the massive

arrival in the West of colonists from the East, and the development of certain resources necessitated the conclusion of treaties.

We should not forget that the Aboriginal peoples are not the only ones to refer to very old documents to affirm their distinctness. For Francophone Quebecers, in particular, the *Quebec Act of 1774* is just as important a reference in the history of their political and legal institutions as the *Royal Proclamation of 1763* is for the Aboriginal peoples. It should be noted that, despite the conquest by the British, the Quebec Act guaranteed the French Canadian colonies their freedom of religion and permitted the re-establishment, in particular, of French civil law. In short, there is nothing bad about having a good knowledge of your history. Moreover, the first colony of Quebec was created by the *Royal Proclamation of 1763*.

A RELATIONSHIP BASED ON ALLIANCES AND TREATIES

The conclusion of treaties is both a very old and a very modern way of establishing peaceful relations between peoples and nations. A treaty implies a consent, a voluntary adherence, a reciprocal acknowledgement, and a mutual respect by the parties. In North America, the conclusion of treaties was a well-established practice in the history of relations between European nations and Aboriginal peoples.

MONTREAL CELEBRATES THE 300TH ANNIVERSARY OF THE GREAT PEACE OF 1701

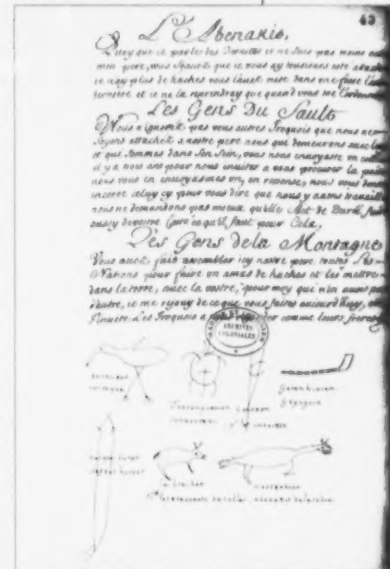
On August 4, 2001, Montreal will be the scene of large-scale festivities to mark the 300th anniversary of the signing of a major treaty concluded in 1701 between Governor Caillière, representing the French Crown, the representatives of the Five Iroquois Nations and the representatives of over 30 Amerindian nations allied with the French. This peace and friendship treaty ended 100 years of war with the Iroquois.

Known by the name of the Great Peace of Montreal, this treaty was signed at a grandiose event attended by over 1,000 Amerindian ambassadors held in a town of just 3,000 inhabitants. Among the principal makers of the Great Peace, the Huron Chief Kondiaronk played a decisive role only to pass away during the event. A state funeral was celebrated in his honour.

In a work on the Great Peace of Montreal, the historian Gilles Havard (2001) admirably describes a great moment in Franco-Amerindian relations that deserves to be restored to our collective memory.

An extract from the peace and friendship treaty signed in Montreal on 4 August 1701. The totemic emblems of some forty Amerindian nations appear at the bottom of the document; the signature of the architect of the Great Peace, the Huron chief Kondiaronk (also known as The Rat), is at the bottom left.

National Archives of Canada,
C 137797



An Amerindian chief and the Sieur Louis-Hector de Caillière exchange wampum necklaces during a ceremony commemorating the 300th anniversary of the Great Peace of Montreal.

Photo: René Fortin,
Corporation des fêtes de la Grande Paix de Montréal



"Treaty" means a formal agreement or accord between nations or states that are seeking to reconcile their interests and aspirations. Treaties have often taken the form of military alliances in which the parties undertake to support and assist each other. Several treaties were concluded to end hostilities and set out the method of establishing peace and amicable relations. Commerce was also a major concern, since war and commerce were closely linked in the battles waged by the large powers (the French, English, and Dutch) to ensure their hegemony over the territory. As Chapter 5 will explain, treaties would cover Aboriginal lands and land titles at a much later date.



From the initial contacts, the practice of alliances and treaties was essential. To settle the lands and develop the fur trade, close and harmonious relations with the various Aboriginal peoples had to be developed.

Nicolas Vincent Isawanhonhi, Grand Chief of the Lorette Huron, holds the wampum necklace that he presented to King George IV of England in 1825.

Unknown artist, Archives nationales du Québec, Québec City

THE COVENANT CHAIN

The tradition of the covenant chain began at the time of the initial contacts between the Dutch colonists and the riverain Indians in the Hudson River region. In 1618, these two groups entered into an alliance, represented by a Dutch ship attached to a tree, first with a cord and later with an iron chain. The cord represented an alliance between equals, and the iron emphasized the alliance's solidity. Even though the Mohawks took the place of the riverain Indians and the British replaced the Dutch, the covenant chain remained the symbol of the political alliance established in the region. But the iron chain became more refined in the language of ceremonial practices and, by the beginning of the 18th century, it had become a silver chain.

(Fredrickson and Gibb 1980, 10–11)

authorization to settle on Aboriginal lands and organize the fur trade, in which the Amerindians would play a crucial part. It seems that this authorization was obtained. In exchange, the Montagnais chief Anababijou obtained assurance of French military support in the campaigns led by his nation against its enemies, the Iroquois.

Such an alliance was not an isolated event. In the ensuing months, the King of France conferred the following powers on his lieutenant general, the Sieur des Monts, who had the charge of representing him: to deal with and contract for the same purpose peace, alliance and confederation, good friendship, correspondence, and communication with the said peoples and their princes or others having power and commandment over them, and to maintain, keep and carefully observe the treaties and alliances concluded with them, provided they observe such treaties and alliances on their part (Grant 1904–1911, 491).

A POLICY THAT CONTINUED UNDER THE BRITISH REGIME

The procedure advocated under the French Regime was perpetuated under the British Regime. In fact, the British authorities had followed the same procedure for a long time. A tradition of friendship pacts had developed in the colonies of New England and New York and was symbolized by the so-called "covenant chain." Even today, representatives of the Mohawks and other members of the Iroquois Confederacy remind us of this early

Just before the Conquest, a series of peace and friendship treaties was also concluded by the British, in what were later to become the Maritime provinces. A treaty concluded with the Micmac of Nova Scotia in 1752 renewed certain promises made in 1725 and 1726 and affirmed the Micmac "free liberty to hunt and fish as usual." Only a few years ago, the Supreme Court of Canada confirmed that this document, despite how old it was, was still valid as a solemn undertaking that the parties had never renounced.

The climate of uncertainty created by the Conquest of 1760 also led the British authorities to expend extra effort on the conclusion of treaties. William Johnson, an important figure who was appointed Superintendent of Indian Affairs, increased the number of congresses and held councils that would result in numerous treaties: Swegatchy (August 1760), Caughnawaga (September 1760), Fort Pitt (September 1760), Detroit (December 1760), Albany (June 1761), Niagara (July 1761), and again in Detroit (August–September 1761) and Caughnawaga (July 1763). These meetings gave rise to intense diplomatic activity. At the Niagara Council of July 17 to August 4, 1761, for example, twenty-four Amerindian nations were present. Numerous treaties were signed or former alliances renewed at this council.

Under the British regime, however, as we mentioned previously, the *Royal Proclamation of 1763* would mark a turning point in the nature of the accords concluded. First, the Proclamation would confirm that the Aboriginal peoples had an incontestable right over the lands. Here was recognition, in black and white! However, despite the apparent generosity of the document, the colonial authorities would use it as an instrument of dispossession. From that point on the treaties would become the

IN 1761,

WONDERFUL PROMISES TO THE MICMAC

"Protection and allegiance are fastened together by links, if a link is broken the chain will be loose. You must preserve this chain entire on your part by fidelity and obedience to the great King George the Third, and then you will have the security of this royal arm to defend you.

"I meet you now as His Majesty's graciously honoured servant in government and in his royal name to receive at this pillar, your public vows of obedience to build a covenant of peace with you, as upon the immovable rock of sincerity and truth, to free you from the chains of bondage, and to place you in the wide and fruitfull field of English liberty.

"The laws will be a great hedge about your rights and properties. If any break this hedge to hurt or injure you, the heavy weight of the laws will fall upon them and punish their disobedience."

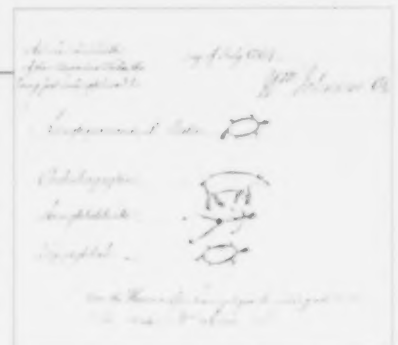
Nova Scotia Governor Jonathan Belcher addressing the Micmac at Halifax, 1761, at ceremonies renewing the Treaty of 1752.

(Reported in Richardson 1989, 73)

MORE TREATIES

AT THE TIME OF THE BRITISH CONQUEST

Above is an extract from a peace and friendship treaty concluded in Niagara between the Huron of Detroit and William Johnson, representative of the British Crown, on July 18, 1764. At the time of the 1760 Conquest, the British authorities stepped up their efforts to conclude treaties. William Johnson, who was appointed Superintendent of Indian Affairs, increased the number of congresses and councils, and this would result in numerous treaties such as the one mentioned above. The document consisted of five articles spread over just four pages.



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C 135290

process used by the Crown to extinguish the land titles of the first inhabitants. Once this extinguishment was obtained, the territories could then be opened up to settlement. And the Crown reserved for itself the right to conclude treaties. After the "peace and friendship treaties," a new generation of treaties, the "land treaties," took shape. In Chapter 5, "Sharing Territory," we will see how it was possible to conclude numerous land treaties bearing on a large portion of Canadian territory, but not the territory of Quebec. This glance back

THE SEVEN FIRES CONFEDERACY OF THE ST. LAWRENCE VALLEY

A Valuable Political Alliance

[TRANSLATION] "At the time of the French and English regimes in Canada, Amerindians from Quebec forged a singular political alliance known by the written Euro-American tradition as the Seven Nations

of Canada. This alliance consisted of the Catholic Amerindians from the villages of the St. Lawrence Valley: Wendake, Long Point, Wôlinak, Odanak, Kahnawake, Kanehsatake, and Akwesasne. This Confederacy represented the alliance among the nations, that is between the Aboriginal councils

or governments of each village. The pact was federative because there was a central political organization, the Grand Council of Kahnawake, which shared various jurisdictions with the various Confederacy members, which in turn were assured in principle of both cohesion and self-government, without jeopardizing the identity of the allied communities. Hence, when these Amerindians referred to the Confederacy, they were alluding to unity and common representation. The political organization of the Amerindians of Quebec was structured in the 17th century, circa 1660. The alliance was broken in the 19th century, circa 1860" (Sawaya 1998, 14).

A street in Kahnawake (formerly called Caughnawaga) at the turn of the century

Postcard, collection of Pierre Lépage

The recent work of the historian Jean-Pierre Sawaya (1998) reveals to us this little-known facet of the political history of the Amerindians. The Seven Fires Confederacy consisted of the "domiciled Indians," so named under the French regime and denoting Amerindians of the missions established in the proximity of Montreal, Trois-Rivières and Quebec City. In this alliance, the "Great Fire of Kahnawake" held a central position leading political and diplomatic relations with the other governments of northeastern America (ibid., 167). The Confederacy played a valuable role, in particular in the settlement of several territorial disputes. Internally, the member nations also used the Confederacy to settle their own disputes. This was, in particular, the case of the territorial sharing among Confederacy members and the respective use of hunting grounds

Amerindians of Lower Canada

Author: Th. Kammere according to C. Krieghoff
(A. Borumi, Archives nationales du Québec, Québec City)

and resources. Regarding the actual importance of the Confederacy, the researcher has noted that the Seven Fires maintained continuous political and diplomatic relations, first with the French and then with the British, and also with the Wabanaki Confederacy, the Iroquois Six Nations Confederacy and the various Great Lakes confederacies (ibid., 167).

at history will provide us with more information on the origin of current land claims and, in particular, give us a better idea of their scope. But before doing this, we should look more closely at how the British Crown and later the Canadian Government absolved themselves of their responsibility to ensure the "protection" of the Aboriginal nation. We will see that a major shift had occurred in the administration of Indian Affairs.

AMERINDIAN ARCHIVES

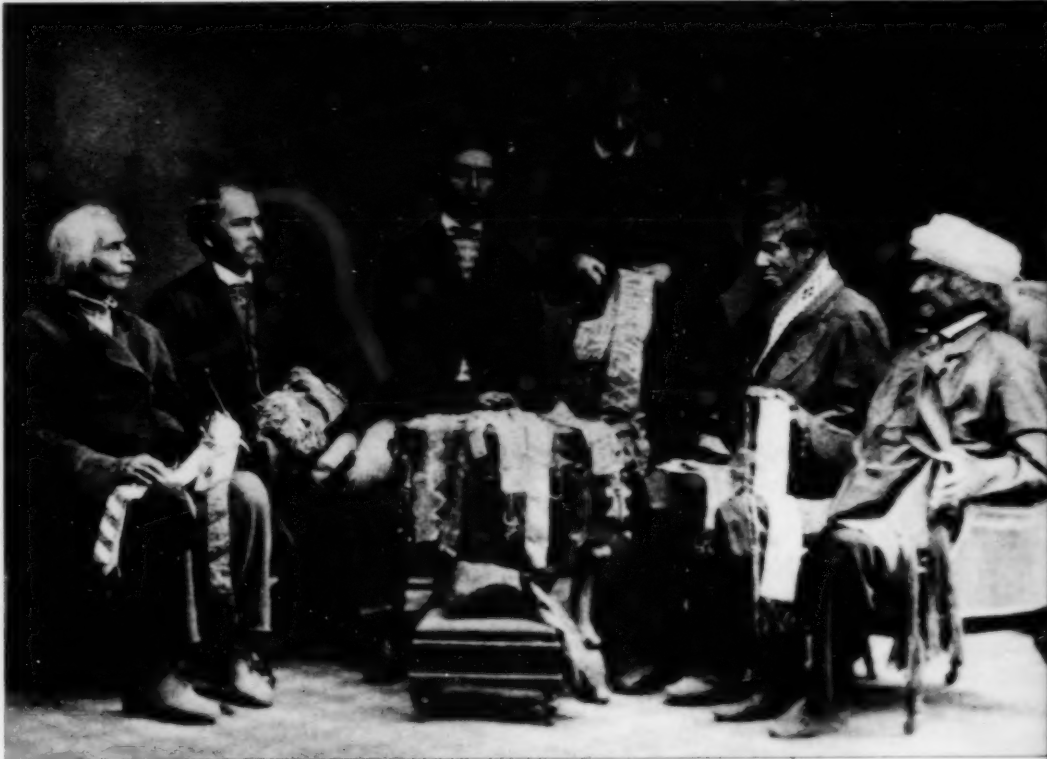
Wampum beads were used as official archival documents and served to officialize treaties between Amerindian nations or treaties that these nations concluded with European nations. They were also used to mark various social and political events of the Amerindians. Wampum is a bead made of sea shells. By extension, necklaces, belts and other objects made of these beads are also called wampum.

Six Nations chiefs explain the meaning of the wampum necklaces that they have been entrusted with.

National Archives of Canada, C 85137

The colour of the beads used, the number of rows, their lengths, as well as the symbols and motifs reproduced all have their own significance. These genuine Amerindian archival pieces are also guarded preciously. With the Seven Fires Confederacy of the St. Lawrence Valley, for example, Kahnawake acted as wampum keeper (Sawayaya 1998, 113). Wampum necklaces could also be guarded by individuals to whom the

power to interpret these agreements or historical facts was transmitted. This is the case of William Commanda, an Algonquin elder from Maniwaki who has three wampum necklaces in his possession. He is vested with the title of "keeper of the wampum."



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Photo: Pierre Trudel



Chapter 3

ASSIMILATION: NOT A HIDDEN OBJECTIVE

For the average individual, it is difficult to understand how a particular category of citizens can be governed exclusively by the federal government. Is this a historical anomaly or an attack on the equality of all citizens? The answer is not obvious, and to find it the historical facts must be consulted.

THE INDIANS: EXCLUSIVELY UNDER FEDERAL JURISDICTION

To begin at the beginning, First Nations peoples ("Indians") and lands reserved for them are *governed exclusively by the federal government*, which is not the case for other citizens. This is one of the characteristics of the special status of First Nations peoples. First Nations peoples are distinct citizens and have been distinct citizens ever since the French regime. However, the federal government has governed their lives by means of a special act, the *Indian Act*, since 1876. As we will see further on, this law of exception does not apply to all Aboriginal peoples.

The federal government's exclusive responsibility for the First Nations peoples is derived from the *Proclamation of 1763*, that famous document in which the Crown affirmed its responsibility to provide "protection" for the "several Nations or Tribes of Indians with whom We are connected," in the words of the king.

However, in reality, the *Indian Act* distorted this responsibility of protection by transforming the nations and tribes to be protected into *minors* under the *guardianship of the federal government*. In the name of protection, the government would decide what was in their best interests.



A group of Amerindians at a lacrosse tournament in 1869
(an engraving of a photograph by Inglis)

L'Opinion Publique, collection of Pierre Lépage



Inuit setting out on the spring hunt (photographed during a 1911 expedition by Captain Bernier)

Archives nationales du Québec, Québec City

FROM PROTECTION TO COERCION

We have seen that, in the struggle that the great colonial powers carried on to ensure their hegemony on the North American continent, war and commerce were indissociable and the Amerindians were needed for both of them. Up to about 1820, the fur trade ranked first among the components in Canada's foreign trade and was of the utmost

importance to the very existence of the colony (Bilodeau and Morin 1974, 6). However, things changed in 1814, after the American revolution and the end of the hostilities between the Americans and the British, because the Amerindians were no longer needed to wage war. Moreover, the fur trade was in decline. The Amerindian nations lost their position as strategic allies; but although they were no longer needed for war or commerce, their lands were still indispensable.

Against this backdrop, an extensive assimilation plan was developed. As pointed out by the anthropologists Savard and Proulx, starting in the 1840s, government authorities would in effect endeavour [TRANSLATION] "to acquire the powers necessary to accelerate Indian territorial dispossession and to decrease the number of Indians by way of assimilation into the white man's way of life. Such objectives required that the government claim the right to determine who was an Indian and, especially, at what time this status would expire" (Savard and Proulx 1982, 86–87). The two authors indicate that the plan to progressively extinguish

**IN 1869, REPUDIATING ONE'S ABORIGINAL NAME
WAS A CONDITION OF ENFRANCHISEMENT**

In 1869, section 16 of the *Act for the gradual enfranchisement of Indians, the better management of Indian Affairs, and to extend the provisions of the Act* set out the following duties of First Nations peoples with respect to their enfranchisement:

"Every such Indian shall, before the issue of the letters patent mentioned in the thirtieth section of this Act, declare to the Superintendent General of Indian Affairs, the name and surname by which he wishes to be enfranchised and thereafter known, and on his receiving such letters patent, in such name and surname, he shall be held to be also enfranchised, and he shall thereafter be known by such name and surname, and his wife and minor unmarried children, shall be held to be enfranchised; and from the date of such letters patent, the provisions of any Act or law making any distinction between the legal rights and liabilities of Indians and those of Her Majesty's other subjects shall cease to apply to any Indian, his wife or minor children as aforesaid, so declared to be enfranchised, who shall no longer be deemed Indians within the meaning of the laws relating to Indians..."

(Act assented to by the Parliament of the United Kingdom,
on June 22 1869)

the First Nations population of Canada was developed between 1840 and 1867 and that it met cost-reduction objectives. The plan also gave rise to the establishment of special vocabulary, of which we can still find vestiges today in words such as *enfranchisement*, *registered Indian*, *non-status Indian*, *Métis*, and *treaty Indian*.

An "Indian affairs" administrative framework was thus established as Aboriginal-occupied lands were progressively appropriated. When the Canadian Confederation was formed in 1867, the First Nations peoples were neither present nor even consulted. Unknown to them, an even more significant shift had occurred in the administration of their affairs: in discussions on power-sharing between the federal and provincial governments, the federal government obtained exclusive jurisdiction over the affairs of First Nations peoples. In so doing, it acquired the power to enact legislation on "Indians and Lands reserved for Indians" (section 91(24) of the *British North America Act*). From "protection," the door was open to coercion.

The exclusive responsibility of the federal government was set out in the *Indian Act* of

1876, a law enacted by the Parliament of Canada that conferred the status of *minors* on Indians, as pointed out above. In fact, the law enshrined the legal incapacity of First Nations peoples in virtually all areas and completely undermined their autonomy.

THE REAL NATURE OF THE INDIAN ACT

In the beginning, Indian status was seen as temporary and for the ultimate purpose of full integration and assimilation into Canadian society. In fact, the Aboriginal populations were in decline

in the middle of the last century and expected to disappear, particularly in the face of the pressures of colonization and development. The *Indian Act* was intended to facilitate this transition toward assimilation.

Until very recently, the notion of enfranchisement was the very essence of the Indian Act. The central provision of the act was expressed as follows:

Section 109: On the report of the Minister that an Indian has applied for enfranchisement and that in his opinion the Indian (a) is of the full age of twenty-one years, (b) is capable of assuming the duties and responsibilities of citizenship, and (c) when enfranchised, will be capable of supporting himself and his dependents, the Governor in Council may by order declare that the Indian and his wife and minor unmarried children are enfranchised.



Crees making snowshoes at Grand Lac Mistassini, 1950

Photo: M. G. Bédard,
Archives nationales du Québec, Québec City

Enfranchisement was therefore the method endorsed by the *Indian Act* for eliminating legal Indian status and acquiring all the attributes of citizenship. In Quebec, however, the Civil Code has established the age of majority at 18 years since 1971. As can be seen in this extract from the Act, 18 was not the age of majority for First

Nations persons. Until 1985, First Nations persons were required to have attained the full age of 21 before applying for enfranchisement. And although for the majority of people the acquisition of citizenship was automatic and unconditional from birth, First Nations persons were subject to different requirements. The Minister of Indian Affairs, as guardian, had to be of the opinion that the First Nations person concerned was capable of assuming the duties and responsibilities of citizenship. The Minister also had to believe that the First Nations person was capable of supporting himself and his dependents. In addition, until 1985 the *Indian Act* went much further by providing that an entire community could apply for enfranchisement:

Section 112: Where the Minister reports that a band has applied for enfranchisement, and has submitted a plan for the disposal or diversion of the funds of the band and the lands in the reserve, and in his opinion the band is capable of managing its own affairs as a municipality or part of a municipality, the Governor in Council may by order approve the plan, declare that all the members of the band are enfranchised, wither as of the date of the order, and may make regulations for carrying the plan and the provisions of this section into effect.

From the standpoint of human rights and at a time when equal rights are being promoted, such measures appear to be rooted in another century. However, as mentioned previously, and as incredible as it may seem, this outdated enfranchisement provision was not abolished until 1985. In fact, the only choices



A group of Amerindians at Fort George, 1869. Note the curved shape of the Cree-built bark canoe.

Photo: A. P. Low, Courtesy of the Geological Survey of Canada



Some forty canoes gathered at Grand Lac Victoria, about 1930

Postcard, collection of Pierre Lépage

open to First Nations peoples have always been the following: permanent guardianship or assimilation. Amerindian populations that wished to maintain their identities and survive as communities had no choice at all: maintaining collective identity meant living under guardianship. However, most non-Aboriginal citizens were kept in the dark regarding these regressive dimensions of the *Indian Act*, believing that the Act conferred special status and numerous privileges on First Nations peoples.

PATERNALISM, LOSS OF AUTONOMY, AND DEPENDENCE

The paternalism of the *Indian Act* can be measured by a few historical events. The initial laws pertaining to the First Nations populations gave the government very extensive powers to control First Nations peoples living on reserves.

FUNDAMENTALS OF THE ASSIMILATION POLICY

The assimilation policy was founded on four hypothetical (and incorrect) dehumanizing assumptions regarding Aboriginal peoples and their cultures:

- They were inferior peoples.
- They were unable to govern themselves, and colonial authorities were in the best position to know how to protect their interests and well-being.
- The special relationship based on respect and sharing enshrined by treaties was a historical anomaly that was no longer valid.
- European ideas of progress and development were obviously correct and could be imposed on Aboriginal peoples without taking into account the other values, opinions or rights they may have.

(Reported in Canada, *Royal Commission on Aboriginal Peoples* 1996a)

First of all, the Amerindian communities lost the political ability to determine who their members were. The government decided that only Indians entered in the register of the Department of Indian Affairs would be legally considered as Indians. Because the federal government established the rules determining who was and was not an

Indian, the categories "status Indians" (or registered Indians) and "non-status Indians" (or non-registered Indians) assumed enormous importance.

Moreover, we have seen that the ultimate objective of the Act was enfranchisement, or rather the loss of status through enfranchisement. Different measures were proposed at different times to achieve this objective. Very early on, it was discrimination based on sex. Any First Nations woman who married a non-First Nations man automatically lost her status as an Indian. Consequently, she had to leave the community and was denied participation in

its political life and even the right to be buried among her own people. In addition, she was de-



A Naskapi with a 3-metre-long toboggan at Fort Mackenzie, 1941

Archives nationales du Québec, Québec City, Fonds Paul Provencher

prived of another fundamental human right—the right to maintain and pursue her own cultural life with the other members of her group. This exclusion applied to her and her

descendants, but did not apply to First Nations men who married non-First Nations women, who became Indians. It is often said that the *Indian Act* constituted a "denial of identity" for thousands of persons and their descendants (Jamieson 1978). As previously

HOW INDIAN STATUS WAS ELIMINATED

ENFRANCHISEMENT FROM 1955 TO 1975

Period	Voluntary Enfranchisement (Adult Indians enfranchised upon their application, along with their unmarried minor children)		Involuntary Enfranchisement (Indian women enfranchised following their marriage to non-Indians, along with their unmarried children)		Total (Enfranchised Indians)
	Adults	Children	Women	Children	
1955-1965	1 313	963	4 274	1 175	7 725
1965-1975	263	127	4 263	772	5 425
	1 576	1 090	8 371	1 947	

seen, it was not until 1985—following relentless battles by Aboriginal women's associations and a decision of the UN Human Rights Committee—that Canada was required to terminate this discrimination based on sex.

Certain loss-of-status provisions were shocking. In 1880, for example, an amendment to the Act decreed that First Nations persons who obtained university degrees would be automatically enfranchised. From that point on they, their families, and their descendants would no longer be considered Indians. A 1933 amendment went even further, empowering the Governor in Council to enfranchise First Nations persons without their consent, upon the recommendation of the Superintendent General of Indian Affairs. Compulsory enfranchisement, although little used, remained in the Act until 1951, despite protests by First Nations peoples.

TOTAL ENFRANCHISEMENTS FROM 1876 TO 1974

Period	Total
From 1876 to 1918	102
From 1918 to 1948	4 000
Fiscal years 1948 to 1968	13 670
Fiscal years 1968 - 1969	785
Fiscal years 1969 - 1970	714
Fiscal years 1970 - 1971	652
Fiscal years 1971 - 1972	304
Fiscal years 1972 - 1973	7
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(Source: Jamieson 1978)

INDIAN PARENTS LOSE RESPONSIBILITY FOR EDUCATING THEIR CHILDREN

"Recent amendments gave control to Indian Affairs and withdrew from Indian parents the responsibility for the care and education of their children, and the best interests of Indian children were promoted and fully protected."

(Reported in the 1921 Annual Report of the Department of Indian Affairs and in Goodwill and Sluman 1984, 134)

The interior of a tent during the summer gathering at the post at Grand Lac Mistassini, 1950

Photo: G. Bedard, Archives nationales du Québec, Québec City



Assimilation was far from being a hidden objective. In the 1920 House of Commons debates on the expediency of enacting compulsory enfranchisement, the



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Reproduced, courtesy of Pierre Laporte

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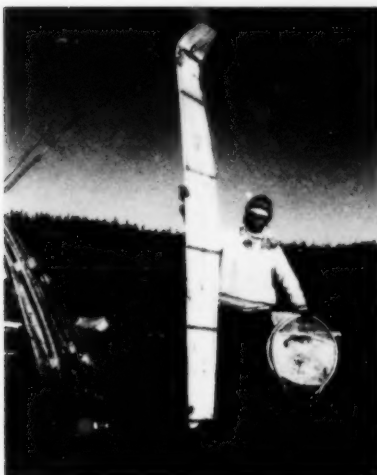
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A Naskapi with a 3-metre-long toboggan at Fort Mackenzie, 1941

Archives nationales du Québec, Québec / © 2008 Bibliothèque nationale

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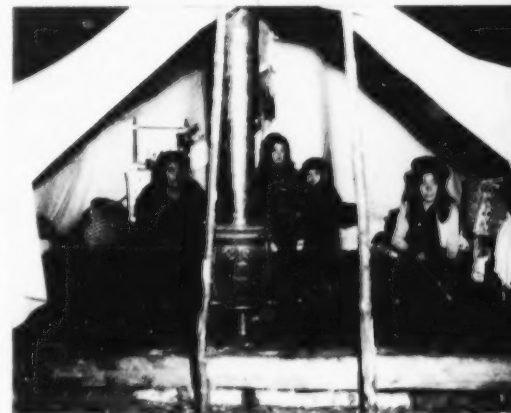
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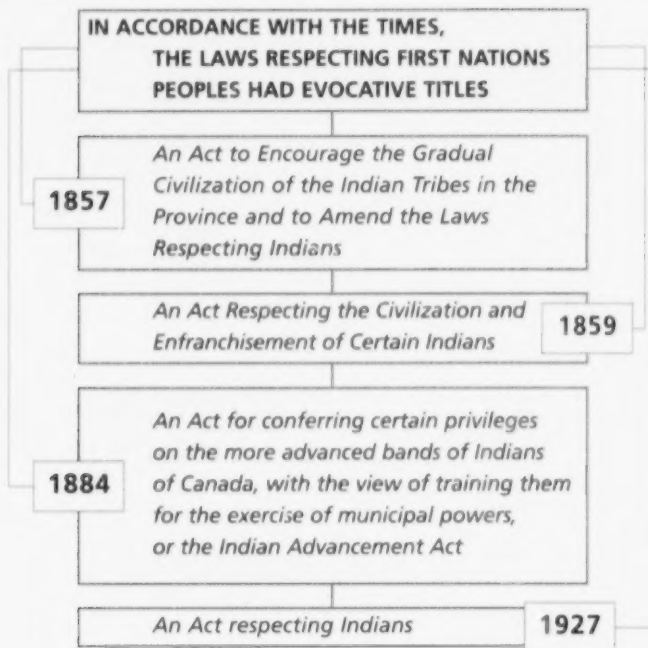
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The interior of a tent during the summer gathering at the post at Grand Lac Mistassini, 1950

Photo © Robert Apollon, *Indians of Quebec*, Centre Doc.



Assimilation was far from being a hidden objective. In the 1920 House of Commons debates on the expediency of enacting compulsory enfranchisement, the



great proponent of the procedure, Duncan Campbell Scott, expressed himself unequivocally:

"Our object is to continue until there is not a single Indian that has not been absorbed into the body politic of Canada and there is no more Indian question. That is the whole purpose of our legislation." (PAC, R.G. 10, 1920).

ABUSES OF POWER

The various First Nations had their own political structures. The federal government quickly took charge of dictating the changes it wanted. The first laws contemplating the gradual enfranchisement of Indians provided for the replacement of traditional political systems by

IN 1923-24, CHIEF DESKAHEH CALLS UPON THE LEAGUE OF NATIONS



Chief Deskaheh of the Cayuga Six Nations reserve in Ontario, photographed while in Geneva in 1923-24

Bibliothèque publique et universitaire, Genève. Photograph by F. Martin

The Canadian Government Counter-Attacks and Imposes Elections

In 1923-24, Cayuga Chief Deskaheh, of the Six Nations reserve, in Ontario, spent a whole year in Geneva in hopes of having the case of his small nation heard before the League of Nations and the International Court of Justice. His objective was to have his nation acknowledged as a sovereign entity. At the outset, a dispute arose between the Six Nations and the Canadian Government concerning the Indian nation's independence under Canadian law, in particular the *Indian Act*, which the federal government was endeavouring to impose.

Although Deskaheh obtained some diplomatic success in Geneva among certain member countries of the LON, the Canadian government's reply was implacable. Not only were the diplomats of certain countries called to order, but the Canadian government also destabilized the Six Nations by backing a dissident faction in the community. The faction concerned had demanded for a number of years that political chiefs be elected, as set out in the *Indian Act*, which the federal government was seeking to impose. Thus, on the strength of an investigation concerning the political situation on the Six Nations reserve, entrusted to one Colonel Thompson—an investigation that made reference to a group of agitators advocating separation—the government ordered that elections be held. These took place on October 21, 1924 by Order in Council and under the supervision of Lieutenant-Colonel Morgan and Royal Canadian Mounted Police officers. Holding these elections made it possible to declare Deskaheh incapable of representing his nation and without authority to be its spokesman. For many,

this interference by the Canadian government constituted the worst injustice ever perpetrated against this community. It would certainly serve as an example for other communities.

elected systems modelled on town councils. The title of *the Indian Advancement Act* of 1884, adopted for the benefit of the "more advanced bands," conveys a great deal about the government's attitude toward political life within these communities. Optional at first, the elected-system provisions were gradually imposed. In at least two cases, the Akwesasne reserve in Quebec in 1899 (Confederation 1983, 10; Richardson 1987, 37) and the Six Nations reserve in Ontario in 1924 (Akwesasne 1978; Weaver 1978, 533), the changes were forcibly imposed by the police.

Social and cultural celebrations and rituals were prohibited, as set out in the *Indian Advancement Act* of 1884:

Every Indian or other person who engages in or assists in celebrating the Indian festival known as the "Potlach" or in the Indian dance known as the "Tawanawas" is guilty of misdemeanour, and shall be liable to imprisonment for a term of not more than six months nor less than two months in any gaol or other place of confinement; and any Indian or other person who encourages, either directly or indirectly, an Indian or Indians to get up such a festival or dance, or to celebrate the same is guilty of a like offence, and shall be liable to the same punishment (Statutes of Canada 1884, 47 Victoria, ch. 27, s. 3).

These prohibitions were abolished in 1951, apparently following pressures exerted by a lobby group made up of Calgary Stampede organizers, who relied on First Nations dances to enhance the prestige of their annual fair.

However, it was the Department of Indian Affairs agent system that symbolized the Department's real control over the internal life of the communities. Up to the 1960s, agents present on each of the reserves exercised quasi-absolute power over these communities, regulating virtually every aspect of daily life and going even to the extent of issuing permits authorizing residents to leave the reserves, even temporarily (Canada, Indian Affairs 1986). The system and administrative framework set out in the Act really undermined any form of autonomy in favour of a paternalistic approach. The government decided what was in the best interest of First Nations peoples.

KINGS AND MASTERS ON THE RESERVE

Up to the 1960s, Indian Affairs agents, present on each of the reserves, exercised a quasi-absolute power in these communities. They regulated virtually every aspect of daily life, going as far as to issue passes authorizing the Indians to leave the reserve, even temporarily.

(Reported in Canada, Indian Affairs and Northern Development, 1986: *The Canadian Indian*)

UNDUE CONTROL OF POLITICAL MOVEMENTS

We now know that on several occasions Indian Affairs and its local agents did not hesitate to intervene directly to prematurely destroy any First Nations political movement whose orientations might be different from those of the Department or constitute a threat to its power. This was notably the case in the 1920s. An Amerindian by the name of Fred O. Loft established the Indian League of Canada and endeavoured to make it a Canada-wide association (Goodwill and Sluman 1984, 124–136). He immediately ran up against the systematic opposition of the Department. At this point, Loft was threatened with automatic loss of his Indian status, among myriad other things, if he didn't abandon his efforts. The leader was discredited and treated as an agitator; meetings were monitored. Loft raised funds to support the organization. After this, by means of an

OBTAINING THE RIGHT TO VOTE

Quebec was the last province to grant voting rights to First Nations peoples. At the federal level, partial voting rights had been granted in 1885 and withdrawn in 1896. Hence, the First Nations peoples of Ontario, Quebec and the Maritimes were eligible to vote in the 1887, 1891, and 1896 general elections. The right to vote was withdrawn because it was deemed incompatible with the status of guardianship. Persons under guardianship, such as First Nations persons, were not

Nova Scotia	Always	Saskatchewan	1960
Newfoundland	Always	Yukon	1960
Northwest Territories	Always	Nouveau Brunswick	1963
British Columbia	1949	Prince Edward Island	1963
Manitoba	1952	Alberta	1965
Ontario	1954	Quebec	1969
Canada	1960		

(Source: Hawthorn and Tremblay 1966, I; Canada 1980)

Right to Vote



considered to be subjects by right (nor were women). Consequently, they were not entitled to the responsibility of voting (Jamieson 1978; see also Hawthorn and Tremblay 1966, I; chap. XIII).

However, the exercise of the voting right was a controversial subject even in Aboriginal communities. Several communities considered that voting constituted an acceptance of Canadian citizen-

ship and a renunciation of their right to be sovereign, independent peoples. For example, in 1963, a circular distributed in Saint-Régis (Akwasasne) regarding an Ontario provincial election clearly illustrated the significance of refusing the right to vote. It stated that if Indians voted, they would no longer constitute a sovereign nation, since they would become Canadian and British subjects by that very fact. Moreover, the "Redskin" was morally bound not to vote in federal or provincial elections. Finally, the circular stated that a band of irresponsible Redskins, suffering from a racial inferiority complex, reported to the polling booths and unfortunately *forever renounced their national sovereignty and identity!* (Hawthorn and Tremblay 1966, I:291).

Even today, several nations still deliberately do not exercise their voting rights in federal and provincial elections.

amendment to the *Indian Act*, any attempt to raise funds on reserves without the written authorization of the Superintendent General of Indian Affairs was prohibited.

At the same time, in reaction to the land claims in British Columbia, the federal government amended the *Indian Act* (Daugherty 1982, 16) so that, from 1927 to 1951, any fundraising destined for land-claims proceedings constituted an offence. The Indian communities were trapped, deprived of any legal recourse.

In 1945, Indians who attempted to affirm their sovereignty and their desire for self-government faced just as strong opposition. The North American Indian Nation Government was founded; when the federal government undertook a revision of the *Indian Act*, this organization passed its own *Indian Act*. But this affirmation of autonomy would have its price.

THE NORTH AMERICAN INDIAN NATION GOVERNMENT IS ESTABLISHED IN 1945

In 1945, the North American Indian Nation Government was established on the initiative of Jules Sioui, a Huron from Lorette. During World War II, Jules Sioui rebelled against the federal government's goal of subjecting First Nations peoples to compulsory enlistment. First Nations peoples did not have the right to vote because they were not considered to have the attributes of citizenship. During the war of 1914–1918, the Indians had been expressly excluded from conscription. Nonetheless, a large number of them volunteered. The same scenario occurred in 1939, but Sioui considered that if First Nations peoples chose to fight in the armed forces, it should be in full freedom and as the king's allies, not as His Majesty's subjects.

The campaign led by Jules Sioui for the independence of his nation led to the proclamation of the North American Indian Nation Government in 1945. An Algonquin, William Commanda, was appointed its supreme head. During the second session of this government, in 1947, the delegates adopted their own *Indian Act*, a real snub to the *Indian Act* that the government was preparing to revise.

It is interesting to note that a passage of the Proclamation of the North American Indian Nation Government, published in 1959, referred explicitly to the Charter of the United Nations Organization, stating that the human rights recognized in the International Charter by the United Nations General Assembly pertain to all humanity, without exception. This meant that First Nations peoples enjoyed the same rights as any other nation and should stand united in order to be recognized as an authentic nation.

This political movement—bold for the times—even provided for the creation of a national First Nations bank. Moreover, every First Nations person was invited to obtain a registration or membership card. This card, which numerous Amerindians still have today, was signed by the secretary-treasurer of the period, Jules Sioui. The back of the card indicated that the cardholder had certain rights and privileges, including the freedom to circulate between Canada and the United States, exemption from military service, exemption from any tax imposed by a provincial or federal government, the right to hunt and fish on all North American lands, and the right to set up camps at any location whatsoever, taking care not to cause damage to the occupants.

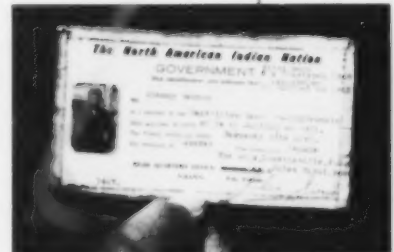
But this affirmation of self-government would have its price. Jules Sioui was arrested and, along with four other members of the organization, accused of [TRANSLATION] "having conspired for the purpose of sowing discontent and hatred among the subjects of His Majesty, the Indians of Canada, by leading them to believe that he had instituted a special status for North American Indians, who no longer need comply with the laws of the land." Jules Sioui, as well as Chief Michel Vachon of Betsiamites, Michel Vachon of Sept-Îles, John Chabot of Maniwaki, and Gabriel (last name omitted in the source text) of Sturgeon Falls were found guilty of seditious conspiracy and sentenced to two years' imprisonment (Sioui c. Le Roi 1949).

Even though this judgement was quashed on appeal, the government brought the case before the Supreme Court, at which time Jules Sioui began a hunger strike that lasted 72 days. Finally, the government abandoned its proceedings (Tsiewei 1994, 17).



William Commanda (centre), Supreme Chief of the North American Indian Nation Government. This photograph appeared on the text of the government's proclamation.

Photo: Terry Kennedy, Courtesy of Mr. Johnny Vachon of Malotenam



A North American Indian Nation Government registration card

Photo: Terry Kennedy, Courtesy of Mr. Johnny Vachon of Malotenam

The initiator of the movement, Jules Sioui, a Huron from Lorette, and a few other leaders would be sentenced to two years in prison for seditious conspiracy (*Sioui c. Le Roi* 1949).

These few historical events are essential to a better understanding of the real nature of

INDIAN RESIDENTIAL SCHOOLS: AN INDISPENSABLE TOOL FOR ASSIMILATION

During an education conference, Marcelline Kanapé, now principal of Uashkaikan Secondary School in Betsiamites, summarized the essence of the Indian residential-school system, which remained in force until the 1970s, by stating that First Nations children were taught that everything "Indian" was bad.



Amerindian students at the Saint-Marc-de-Figuery residential school, near Amos, in the 1950s

Société d'histoire d'Amos, Fonds H. Dudemaine

The Indian residential school system was officially established in Canada in 1892. It was the result of agreements entered into between the Government of Canada and the Roman Catholic, Anglican, Methodist, and Presbyterian churches. The government terminated these agreements in 1969 (Aboriginal Healing Foundation 1999, 7).

The purpose of these establishments was simple: the evangelization and progressive assimilation of Aboriginal peoples. At the end of their education in residential schools, children, after being resocialized and steeped in the values of European culture, would be prototypes of a magnificent metamorphosis: the now-civilized "savages" would be pre-

pared to accept their privileges and responsibilities as citizens (Royal Commission 1996b, 1).

In 1931, there were eighty residential schools in Canada, located primarily in the Northwest and in the western provinces. For reasons that are not well understood, the system was established only later in Quebec. Two Indian residential schools, one Catholic and the other Protestant, were established in Fort George before World War II. Four others were created after the war: Saint-Marc-de-Figuery, near Amos, Pointe-Bleue at Lac Saint-Jean, Maliotenam, near Sept-Îles, and La Tuque in Haute-Mauricie (*ibid.*).

The Royal Commission on Aboriginal Peoples qualified the residential-school episode as tragic. Moreover, since 1986, one by one the churches responsible for the residential schools have made public apologies. For decades, generations of children were knowingly removed from their parents and their villages, subjected to rigid discipline, and even prohibited from speaking their own languages under pain of punishment. During a televised interview about Indian residential schools, the former chief justice of the Supreme Court of Canada, Antonio Lamer, talked about kidnapping: [TRANSLATION] "For all practical purposes, we incarcerated them in schools. I am not very proud of that" (Réseau Historia May 2001). The history of residential schools is also marked by countless tales of negligence, abuse, and physical and sexual violence. Although we should not assume that every school was the same, the findings are nevertheless serious. In 1998, the Government of Canada agreed to contribute \$350 million to support community-healing initiatives for members of the Aboriginal peoples who were affected by the physical and sexual abuse suffered in residential schools. This fund is currently administered by the independent Aboriginal Healing Foundation (Aboriginal Healing Foundation 1999).

the *Indian Act* and federal guardianship. Unfortunately, these sombre moments in a still-recent history have remained unknown. Public opinion has hardly been stirred. In the

next chapter, "Dealing With Different Rights," we will see that the *Indian Act* is still in force and that it has been wrongly perceived as a regime of privileges that exists to the detriment of the general public. Although, at first glance, guardianship appears to be advantageous, it has many serious drawbacks.

THE TUBERCULOSIS EPIDEMIC OF THE MID-50S

One Inuk Out of Seven in Southern Hospitals

In the mid-50s, tuberculosis ravaged northern communities. These two photographs were taken in December 1956 at Immigration Hospital (today Christ-Roi Hospital), near Quebec City. This hospital was used because Indian Affairs and Northern Development was under the jurisdiction of the Department of Citizenship and Immigration between 1949 and 1965. In the photograph above, a group of Inuit women and children stand in front of the Christmas tree; below right is a group of young Amerindians from the Sept-Îles region.

In his book *A History of the Original Peoples of Northern Canada* (1974), Keith Crowe states that in 1950, one Inuk out of five had tuberculosis; in 1956, one Inuk out of seven was hospitalized in the South and someone in practically every First Nations family had to be evacuated to the South for months or years.

Crowe reports that every year medical teams went to the North, taking advantage of treaty gatherings, or on board supply vessels or river barges. They visited remote camps, taking X-rays and giving vaccines, and a steady stream of patients was sent to the South as a result.

In particular, the author evokes this sad period when children and parents were evacuated to Southern hospitals, and how this upset so many families. Tuberculosis victims returned home handicapped and could no longer hunt. Patients were "lost" for years because of administrative errors. Children forgot their mother tongue and were unable to communicate with their peers on their return. Finally, patients had difficulty reintegrating into communities after spending years in overheated hospitals, virtually without exercise, in incessant cleanliness, and eating pre-prepared food (Crowe, 1974).



Photo: Louise Roy, collection of Pierre Lepage



Photo: Louise Roy, collection of Pierre Lepage

FOR FURTHER INFORMATION

CANADA, ROYAL COMMISSION ON ABORIGINAL PEOPLES. *People to People, Nation to Nation: Highlights from the Report of the Royal Commission on Aboriginal Peoples*. Minister of Supply and Services Canada, 1996. Approximately 150 p.

DUPUIS, Renée. *La question indienne au Canada*. Montreal: Boréal, coll. Boréal express, 1991. 124 p.

JAMIESON, Kathleen. *Indian Women and the Law in Canada: Citizens Minus*. Ottawa: Advisory Council on the Status of Women and Indian Rights for Indian Women, Minister of Supply and Services Canada, 1978. 108 p.

A poster
announcing the
elections on the Six
Nations reserve in
Ontario, October 1924

Photo: National Archives
of Canada, C 33642



During a demonstration in March 1959, traditional chiefs Joe Logan Sr. and Dave Thomas show their opposition to the elected band council system that the federal government imposed in 1924.

Photo: Toronto Star, National Archives of Canada, PA 123905

Chapter 4

DEALING WITH DIFFERENT RIGHTS



Much has been made of the privileges enjoyed by the First Nations peoples under the *Indian Act*: tax exemptions, all sorts of special health, education and housing measures, and much more. At first glance, it would certainly seem that First Nations peoples are better treated than the majority of citizens.

In this regard, it is said that the *Indian Act* has turned Amerindians into spoiled children who are not the least bit interested in giving up all the tax privileges they receive. Moreover, Aboriginals are thought to have been made to exploit the system because they don't pay taxes and have all sorts of privileges without wanting to take any responsibility. First Nations peoples are said to be costing us a great deal; hence the federal government should stop supporting them. Then they would see that autonomy entails concomitant responsibilities. Furthermore, it is thought that Amerindians should be given their autonomy at the earliest possible moment, after which government support should stop.

Such statements, expressed openly during open-line radio broadcasts or in letters from readers of major dailies, judge Aboriginal communities harshly and with finality. Moreover, the tone is particularly hurtful and betrays a great deal of ignorance and misunderstanding.

An in-depth analysis of the *Indian Act* reveals that, far from constituting a regime of privileges, the Act actually constitutes a regime of Amerindian guardianship. Although, at first glance, guardianship appears to be advantageous, it has many serious drawbacks.

A REGIME OF GUARDIANSHIP

We saw in the previous chapter that *Indians and lands reserved for Indians* have fallen under the exclusive jurisdiction of the federal government since Confederation in 1867. This is not the case for other citizens, who are governed by both the federal and the provincial governments.

To understand the origin of this particularity, we have to go back to the Conquest, at which time the British Crown wanted to ally itself with the Amerindian nations, given their importance on a military and strategic level. In an official document, the *Royal Proclamation of 1763*, the King affirmed his desire to ensure the "protection" of the "Nations or Tribes of Indians with whom We are connected." The Proclamation, which has constitutional value, even mentions obtaining the consent of the Amerindian nations with respect to the settlement of their lands.

However, when the Government of Canada adopted its first *Indian Act* in 1876, a shift had clearly occurred in the administration of Amerindian affairs. These "nations and tribes" whose "protection" had to be assured would be placed under the guardianship of the federal government.

Renée Dupuis, the author of a work on the Amerindian issue in Canada, summarizes this guardianship regime well:



Young girls carrying wood, Mistassini, 1957

Photo: Jos. Morin,
Archives nationales du Québec, Québec City

[TRANSLATION] Revised in 1951, the federal Act clearly constitutes a regime of guardianship of Indians (both individually and collectively) and of the lands reserved for them. Actually, the Indians have a status equivalent to that of a minor child, since they are subject to the control of the government, which has the authority to make

THE SO-CALLED "EQUALITY" GRANTED BY THE 1969 WHITE PAPER

In 1969, Jean Chrétien, who was then Minister of Indian Affairs and Northern Development under the Trudeau government, released the *Statement of the Government of Canada on Indian Policy*. This White Paper was unanimously rejected, and it led to the unprecedented mobilization of all Aboriginal organizations throughout Canada.

According to the authors of the document, the "just society" promised by the Liberal government required that federal guardianship be abolished. In return, the Liberal government would make all citizens equal and terminate special status for First Nations peoples, as attested by the following two extracts from the White Paper:



Photo: Duncan Cameron, National Archives of Canada, PA 170161

This Government believes in equality. It believes that all men and women have equal rights. It is determined that all shall be treated fairly and that no one shall be shut out of Canadian life, and especially that no one shall be shut out because of his race.

[...] In the long term, removal of the reference in the constitution would be necessary to end the legal distinction between Indians and other Canadians. In the short term, repeal of the *Indian Act* and enactment of transitional legislation to ensure the orderly management of Indian land would do much to mitigate the problem (Canada, Indian Affairs, 1969).

Generous in appearance, this proposal of equality instilled anger and indignation. The reaction was all the stronger given that in the previous year many Aboriginal leaders had agreed to participate in provincial "advisory committees" formed by the Department of Indian Affairs. The response of the Aboriginal groups was immediate and virulent. An Aboriginal leader from Alberta, Harold Cardinal, immediately responded with the publication of a book that has since become well-known: *The Unjust Society. The Tragedy of Canada's Indians*. From the first page, the author affirmed that once again First Nations peoples had been betrayed by a program that offered nothing less than cultural genocide. The policy presented in June 1969 was a thinly veiled program of extermination by way of enfranchisement. Not mincing his words, Cardinal added that to survive an Amerindian had to become a good lit-

decisions on their behalf. All aspects of the lives of individuals and communities are supervised, from an Indian's birth to his death, from the creation of a band to the cessation of a reserve. Responsible for this regime on behalf of the government, the Minister of Indian Affairs holds all powers in this regard. The guardianship regime determines Indian status, as well as band membership, the political and administrative structure, reserve management, tax exemptions, and financial administration, while making Indians wards of the State (Dupuis 1991, 42).

Up to 1985, the renunciation of Indian identity was the price to be paid for acquiring all the attributes of citizenship. The Act provided that an Amerindian or even an entire Amerindian community could apply for enfranchisement, upon certain conditions. To be enfranchised meant no longer legally being an Indian, and hence an enfranchised Indian had to leave his

community. Concretely, this meant assimilation, which was the principal objective of the Act. Despite amendments made in 1985 and a government policy advocating greater autonomy for the First Nations, the *Indian Act* is still in force. And it is wrongly perceived to be a regime of privileges that exists to the detriment of the general public.

the white man with dark skin. The author went on to affirm that even though Americans living to the south had invented the adage "The only good Indian is a dead Indian," Canadians were prepared to modify the expression slightly to "The only good Indian is a non-Indian" (Cardinal, 1969).

A little further on, Harold Cardinal underlined the strange resemblance between the White Paper's proposal and the "policy of termination" espoused by the United States in the early 1950s. This policy, established by the Eisenhower government, had disastrous results, in particular on Aboriginal lands, and was finally abandoned (*ibid.*).

In June 1970, the Indian chiefs of Alberta responded in turn by releasing their Red Paper, entitled *Citizens Plus*, at a meeting in Ottawa with Prime Minister Trudeau and the Minister of Indian Affairs (standing, right, in photograph). The chiefs reiterated on their behalf one of the principal recommendations of the Hawthorn-Tremblay report, published in 1966. In their investigation of the situation of the First Nations peoples of Canada, the authors of this report had recommended the recognition of Amerindians as privileged citizens rather than the end of special status for them because, as well as the rights and duties normally arising from citizenship, they held certain additional rights as privileged members of the Canadian community (Hawthorn and Tremblay, 1966, vol. I).

The signatories of the Red Paper were especially concerned since they represented nations that had signed treaties in 1876, 1877, and 1899. This was the perfect opportunity to remind the government of the solemn promises expressed by the representatives of the Crown during the negotiation of these agreements. The treaty commissioners had clearly indicated that their promises would be honoured "as long as the sun shines and the rivers flow."

The policy proposed in the White Paper was finally abandoned. One of the positive consequences of the whole affair was the development and consolidation of Aboriginal political organizations in each of the provinces and throughout Canada. In 1970, the National Indian Brotherhood was established. In 1980, it would become the Assembly of First Nations, at the time of discussions pertaining to the repatriation of the Canadian Constitution. The work of these new organizations paid off. In 1982, the Canadian Parliament adopted constitutional provisions designed to better protect the fundamental rights of Aboriginal peoples—a complete reversal of the policy that had been drawn up thirteen years previously.

ADVANTAGES AND DISADVANTAGES

In reality, it is much more accurate to say that Amerindians living on the reserves have rights that differ from those of other citizens. Although in certain respects Amerindians have advantages that others do not have (certain tax exemptions, for example), they are also deprived of a number of rights.

The fundamental right of any person to the peaceful enjoyment and free disposition of his property is a good example of this deprivation. This right is recognized in the *International Covenant on Civil and Political Rights*, which was ratified by Canada. In areas of Quebec jurisdiction, this right is also guaranteed by section 6 of the *Charter of Human Rights and Freedoms* of Quebec. However, the exercise of this right is not fully guaranteed on reserves, which are under federal jurisdiction. For example, the right is not guaranteed with respect to property and transfers of real

**INDIANS LIVING ON RESERVES
HAVE DIFFERENT RIGHTS FROM OTHER CITIZEN
THEY ARE ALSO DEPRIVED OF CERTAIN RIGHTS**

Situation of an Indian living on a reserve

Situation of a citizen living in a municipality

- A right of possession or occupation
- The Minister of Indian Affairs and Northern Development issues certificates of possession and occupation
- A right of transfer to the band or another member of the band only; the transfer is not valid unless it is approved by the Minister
- Reserve lands are not subject to any legal seizure
- They cannot be mortgaged, hence limiting borrowing ability

- A right of ownership
- An owner obtains an actual property title
- Any landowner may sell freely to anyone he or she so desires, including to one or more persons residing outside the municipality
- Right of seizure
- Mortgage right and borrowing capacity

- The Minister has exclusive jurisdiction over testamentary matters regarding Indians
- A will has legal effect only when approved by the Minister

- Any person of sound mind may bequeath his or her property to anyone at all
- Any holographic or notarial will generally have legal effect after death

- The Minister is granted exclusive jurisdiction over the property of an Indian who is mentally incompetent

- The family or, failing this, the Public Curator has jurisdiction over the property of a mentally incompetent person.

- The Minister may administer all property to which the minor children of Indians are entitled, or ensure the administration thereof, and he may appoint a guardian for such purpose

- The parents of a minor child, or failing this, the person acting in their stead (the guardian) are responsible for the property of minor children

- The property of an Indian or a band located on a reserve cannot be the subject of a privilege, a pledge, a mortgage, or a seizure

- All property may generally be mortgaged or seized

property, or with respect to testamentary matters. The table included in this chapter, which compares the situation of an Amerindian living on a reserve with the situation of an ordinary citizen living in a municipality, provides a good illustration of the situation.

Any person living in a municipality who has the means to do so may purchase land. The transaction is simple and takes place between individuals. This is not the case on reserves

Situation of an Indian living on a reserve**Situation of a citizen living in a municipality**

- Because the real and personal property of an Indian on a reserve is not seizable, access to consumer credit and even the obtainment of a credit card often prove impossible, regardless of the Indian's income and solvency

- Any solvent person holding real or personal property as security can generally have access to consumer credit and can obtain a credit card

- Ordinarily, no Indian or band is subject to taxation on the ownership, occupation or possession of a property on a reserve. However, the band council may make by-laws for local purposes regarding land on the reserve, including rights to occupy, possess or use such land

- In a municipality, owners are subject to municipal taxes and school taxes

Retail Sale

- Exemption from sales tax when the sale is made on a reserve between Indians or to an Indian
- Personal property other than a motor vehicle purchased off a reserve by an Indian is tax-exempt if delivered by the seller to the reserve for consumption or other use

- GST and QST is applicable on the sale of products and services throughout the province of Quebec

- Exemption from income tax when work is performed on the reserve
- Exemption from income tax when work is located off the reserve, but only for an employer located on the reserve
- An Indian's income is *taxable* when work is performed off the reserve for an employer located off the reserve
- An Indian's employment insurance benefits are taxable only if they are paid on the basis of taxable income

- Income from employment or benefits are taxable
- The employment insurance benefits of every citizen are taxable

Amerindians are deprived of the right of land ownership. They have only a limited right of possession or occupation. Nor are land transfers subject to the free-market system as in the case of a municipality.

The right of seizure on reserves is another revealing example. The real and personal property of an Amerindian or a band cannot be seized. At first glance, this could seem to be an advantage. In

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LAND OWNERSHIP AND POSSESSION

- | | |
|--|--|
| <ul style="list-style-type: none">- A right of possession or occupation- The Minister of Indian Affairs and Northern Development issues certificates of possession and occupation- A right of transfer to the band or another member of the band only, the transfer is not valid unless it is approved by the Minister- Reserve lands are not subject to any legal seizure- They cannot be mortgaged, hence limiting borrowing ability | <ul style="list-style-type: none">- A right of ownership- An owner obtains an actual property title- Any landowner may sell freely to anyone he or she so desires, including to one or more persons residing outside the municipality- Right of seizure- Mortgage right and borrowing capacity |
|--|--|

DESCENT OF PROPERTY

- | | |
|--|--|
| <ul style="list-style-type: none">- The Minister has exclusive jurisdiction over testamentary matters regarding Indians- A will has legal effect only when approved by the Minister | <ul style="list-style-type: none">- Any person of sound mind may bequeath her property to anyone at all- Any holographic or notarial will generally have legal effect after death |
|--|--|

PROPERTY OF MENTALLY INCOMPETENT PERSONS

- | | |
|---|---|
| <ul style="list-style-type: none">- The Minister is granted exclusive jurisdiction over the property of an Indian who is mentally incompetent | <ul style="list-style-type: none">- The family or, failing this, the Public Curator has jurisdiction over the property of a mentally incompetent person |
|---|---|

PROPERTY OF MINOR CHILDREN

- | | |
|--|---|
| <ul style="list-style-type: none">- The Minister may administer all property to which the minor children of Indians are entitled, or ensure the administration thereof, and he may appoint a guardian for such purpose | <ul style="list-style-type: none">- The parents of a minor child, or failing this, the person acting in their stead (the guardian) are responsible for the property of minor children |
|--|---|

ALIENATION OF PROPERTY

- | | |
|---|---|
| <ul style="list-style-type: none">- The property of an Indian or a band located on a reserve cannot be the subject of a privilege, a pledge, a mortgage, or a seizure | <ul style="list-style-type: none">- All property may generally be mortgaged or seized |
|---|---|

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ACCESS TO CONSUMER CREDIT

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TAXATION

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The Indian Act does not apply to the Inuit in any way.

Photo: Gerald McKenzie



Two Amerindian women became known for their fight against the sex-based discrimination contained in the Indian Act. Sandra Lovelace (on the left in the photograph), a Malecite from New-Brunswick, lost her Indian status in 1970 after she married a non-Indian. She wouldn't have lost this status had she been a man who married a non-Indian woman. During the same period, Janet Corbiere-Lavell (on the right in the photograph), an Ojibwa from Ontario who had been in the same situation, made an unsuccessful appeal before the Supreme Court of Canada to have the discriminatory article in the Indian Act invalidated. In a split decision in 1973, the Supreme Court ruled that the Canadian Bill of Rights did not take precedence over the Indian Act. This defeat and the lack of any further domestic recourse saw Sandra Lovelace take her case to the Human Rights Committee of the United Nations where she won her case. In June 1990 in Montreal, the two women received the Robert S. Litvack Human Rights Award.

Photo: Jean-Yves Létourneau, La Presse

reality, it is a major disadvantage in terms of economic development. With no right of seizure, an Amerindian cannot borrow, contract a mortgage or have free access to consumer credit. It is not surprising that few Aboriginal businesses have been able to develop.

Moreover, the scope of the privilege conferred by the income-tax exemption has been greatly exaggerated. In the majority of Amerindian communities, this exemption is taken into account in determining salaries. To what extent is this privilege really a privilege if salaries are appreciably lower as a result? Hence, we should be careful about commenting on it. Once again, we cannot isolate one component of the *Indian Act* without taking into account all components of the guardianship regime.

Moreover, the exemptions set out in the *Indian Act* apply only to registered *Indians*, and not to all Aboriginal peoples. For example, the Inuit are not subject to this law of exception and therefore pay taxes like anyone else.

SELF-GOVERNMENT: AN ALTERNATIVE TO GUARDIANSHIP

As we have seen, Amerindians had only one way of keeping their identity: government guardianship. The only other possibility was to apply for enfranchisement and be assimilated. This regressive provision of the Act, which treated the First Nations like children, was abolished in 1985, as was the provision that permitted discrimination on the basis of sex by removing the Indian status of Indian women who married non-Indian men.

The creation of Aboriginal governments, now under discussion, represents a new path, providing hope that Indians would be able to survive, develop, and thrive as communities. At long last, this represented the opportunity for First Nations peoples to be in charge of their own destiny and to preserve their collective dignity. The creation of Aboriginal governments is all the more justified in that the Aboriginal peoples of Canada were granted the status of *peoples* in the Canadian Constitution. For its part, even though it did not recognize the 1982 con-



The Haudenosaunee, also known as the Six Nations Iroquois Confederacy, issues its own passports—an affirmation of its independence and political sovereignty. For Iroquois representatives there is no question of presenting a Canadian passport.

Photo: Roger Lemoyne



A group of Amerindian police cadets receive their diplomas during a ceremony at the Institut de police du Québec in June 2000

Photo: Pierre Lepage

stitutional agreement, in 1985 the National Assembly of Quebec passed a resolution stating that the Aboriginal peoples were

nations; this meant that self-government agreements had to be entered into. The resolution went on to affirm that not only were assimilation policies no longer valid, they were also prohibited.

AUTONOMY IN THE AREA OF EDUCATION

The Indian residential-school system ended in 1969. In the mid-1970s, the Department of Indian Affairs and Northern Development administered approximately 30 elementary schools in Aboriginal communities. Secondary and post-secondary students were required to enrol in the Quebec public school system, and the federal government entered into financing agreements with the institutions concerned (MEQ 1998, 4).

In the space of 20 years, the Aboriginal school system changed radically, initially as a result of the "take charge" movement launched in 1972 by the National Indian Brotherhood. In 1973, the Department of Indian Affairs and Northern Development endorsed and committed itself to this effort. In Quebec, the signing of the *James Bay and Northern Québec Agreement* in 1975 and the *Northeastern Québec Agreement* in 1978 led to the creation of two school boards, one for the Cree and the other for the Inuit. The Naskapis, for their part, administered their schools within the Central Quebec School Board. In 1997–1998, nine school establishments were administered by the Cree School Board, 14 were administered by the Kativik School Board and one was administered by the Naskapis. Funding was received from the two levels of government. Elsewhere, Amerindian communities gradually took charge of federal schools, with the funding provided entirely by Indian Affairs. In 1985, communities were consolidated under the Quebec First Nations Education Council, which provided certain services to member communities. In Montagnais communities, with the exception of Mashteuiatsh, the education mandate was entrusted to the Institut culturel et éducatif montagnais (Montagnais Cultural and Educational Institute).

Atikamekw students learn about computers in the school in Manouane

Photo: Claudette Fontaine, MEQ collection



The school bus in Kangiqsualujuaq, Nunavut

Photo: Tourisme Québec, Heiko Wittenborn



SCHOOLS ON RESERVES AND IN ABORIGINAL VILLAGES IN QUEBEC FROM 1977 TO 1997 *

Year	Federal Schools	Aboriginal Schools	Total
1977–1978	29	—	29
1987–1988	9	37	46
1997–1998	1	61	62

The number of Aboriginal schools therefore doubled in 20 years. "Thus, most Aboriginal people now have access to elementary and secondary schools in their own communities" (ibid. 7). However, despite this undeniable progress, student drop-out and failure rates are of particular concern.

* Source: Ministère de l'Éducation, Éducation Statistique Bulletin, Portrait of the Aboriginal School Population of Quebec, 1998. Data taken from Table 4, p. 51.

Despite the persistence of federal guardianship, we are fortunately very far removed from the days when Indian Affairs agents acted like "kings and masters" on the reserves. Significant steps toward autonomy and self-government have been taken. In the early 1970s, the National Indian Brotherhood chose the area of education to spearhead the "take charge" movement, publishing *Indian Control of Indian Education*. Today, elementary and secondary education is almost entirely administered by band councils, as is the case for health and social services, recreation, housing, public security, and economic development, where self-government agreements have been entered into. Since the signing of the *James Bay and Northern Québec Agreement* and the *Northeastern Québec Agreement*, the Cree and Naskapi have no longer been governed by the *Indian Act*, but are governed by the *Cree-Naskapi (of Québec) Act*, which gives them much more autonomy.

RECONCILING DISTINCT RIGHTS AND EQUALITY RIGHTS

The existence or recognition of distinct rights could at first glance seem incompatible with the right to equality set out in our charters of rights and freedoms.

In this regard, we often confuse equality with sameness. The text of the Charter of Human Rights and Freedoms of Quebec helps us better understand the real meaning to be attributed to the right to equality. The preamble indicates that all human beings are above all "equal in worth and dignity." Nowhere in the Charter is it indicated that all human beings must be the same. In fact, the

respect for differences forms the basis of numerous other fundamental rights and freedoms, including the freedom of conscience, freedom of opinion, and freedom of religion and religious belief. And the right to one's own cultural life is just as much a human right as any other, being expressed in particular by a certain way of life that is tied to the land and the use of natural resources.

Moreover, Aboriginal peoples are not Quebec and Canadian citizens like everyone else, and they never were Quebec and Canadian citizens under either the French regime or the British regime. They are distinct citizens, and this undeniable reality must be taken into account in the interpretation to be given to the right to equality. Since 1982 in particular, the Canadian Constitution has clearly indicated that Aboriginals are "peoples" and that in this regard they have collective rights. We cannot invoke an individual right to equality in order to advocate their assimilation or deny them the right to exist, the right to develop, and the right to thrive as collectivities. The issue of the rights of



Photo: Pierre Trudel

Aboriginal peoples is the subject of specific provisions in the Canadian Charter of Rights and Freedoms, which classifies "aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada..." as rights and freedoms like any others (section 25).

A DISTINCT STATUS SINCE THE FRENCH REGIME

UP TO 1760: UNDER THE FRENCH REGIME,

"Allies of His Most Christian Majesty."

(section 40 of the Capitulation Act of Montreal, 1760)

1763: UNDER THE BRITISH REGIME,

"Nations and tribes" whose "protection" must be assured.

(Royal Proclamation, 1763)

1867: IN THE CONSTITUTION OF CANADA,

"Indians" and "lands reserved for Indians," under the exclusive jurisdiction of the federal government.

(section 91.24 of the Constitution Act, 1867)

1876: IN THE INDIAN ACT,

wards of the state under federal guardianship.

1935: IN A SUPREME COURT JUDGEMENT,

the "Inuit" are "Indians." The Supreme Court of Canada rules that the Inuit fall under federal jurisdiction but the Canadian government will expressly exclude them from the application of the *Indian Act*.

1982: IN THE CANADIAN CONSTITUTION AND THE CANADIAN CHARTER OF RIGHTS AND FREEDOMS,

"the Indians, Inuit and Métis" are "aboriginal peoples" with "aboriginal and treaty rights."

(Section 35 of the Constitution Act, 1982 and section 25 of the Canadian Charter of Rights and Freedoms)



A photograph of the Indians of Quebec Association, founded in 1965. Standing: Chiefs Daniel Vachon, Smally Petawabano, and Harry Kurtness; Miss Whiteduc, secretary; Chief William Wysote; José Sam and Tom Rankin. Seated: Chiefs Max "One-Onti" Gros-Louis, Andrew Delisle, and Mike McKenzie.

Photo: W. B. Edwards, ICEM collection



At a press conference in Montreal are Matthew Coon-Come, National Chief of the Assembly of First Nations, Michèle Audette, president of the Quebec Native Women's Association, Ghislain Picard, Regional Chief of the Assembly of First Nations of Quebec and Labrador, and Darliea Dorey, president of the Native Women's Association of Canada.

Photo: Michèle Audette



Self-government asserts itself through both actions and symbols, as this Listuguj Mi'gmaq poster makes clear.

Photo: Pierre Lépage

INTERNATIONAL RECOGNITION OF THE RIGHTS OF ABORIGINAL PEOPLES

UNESCO gives the world's Aboriginal population as 350 million persons, living in more than seventy countries; this represents more than 5,000 languages and cultures. In spite of their numbers and rich diversity, Aboriginal peoples have seen their most basic human rights denied. They are the peoples that international law forgot. Nevertheless, the situation has been changing rapidly since the 1980s.



Cree chief Ted Moses was the first Aboriginal person in the history of the United Nations to occupy the prestigious function of rapporteur of a conference of the Human Rights Commission. Here he is being presented the medal of the Société québécoise de droit international by Jacques Lachapelle, then president of the Commission des droits de la personne du Québec.

Photo: Félix Atencio-Gonzales, CDPDI

received complaints from Aboriginal individuals and groups that alleged the violation of basic rights. Until the 1970s, however, such complaints achieved little. The decolonization process that the U.N. embarked upon at the beginning of the 1960s was restricted to overseas territories (that is, ones that were geographically separate from the colonizing country) and protectorates only. This meant that the situation of many Aboriginal peoples—nations within nation-states—would fall between the cracks of international control and remain within the exclusive domain of the internal affairs of those individual states (see Lepage 1994).

It would only be at the beginning of the 1970s that the United Nations began to show a real interest in Aboriginal questions. The Sub Commission on Prevention of Discrimination and Protection of Minorities produced a massive study into the discrimination faced by Aboriginal peoples. Its report, which was the result of ten years of work, is both impressive and forceful, as this extract shows:

Much of their land has been taken away and whatever land is left to them is subject to constant encroachment. Their culture and their social and legal institutions and systems

The attempts of the Aboriginal peoples of the Americas to obtain justice through international legal proceedings is not new. Their first efforts took the form of appeals, petitions, and requests to the imperial authorities of the various colonizing countries; from the eighteenth century onwards, Aboriginal delegations and ambassadors regularly travelled to London. One of these trips occurred in 1825, when the great Huron chief Nicolas Vincent and three other chiefs from Jeune-Lorette met with King George IV in the hope of winning their case in a dispute over the lands of the Seigneurie de Sillery; unfortunately, the responsibility for settling the dispute was sent back to the local authorities. The creation of the League of Nations, in 1919, appeared to offer a way forward, but as we saw in the preceding chapter, the Iroquois chief Deskaheh's attempts to have the case of his tiny nation heard met with no success.

The creation of the United Nations, in 1945, gave rise to new hope. The U.N.'s Charter clearly stated the right to the equality and freedom that was to be enjoyed by all peoples and nations both large and small as well as its firm commitment to put an end to colonialism in all of its forms. The United Nations regularly

have been constantly under attack at all levels, through the media, the law and the public educational systems. It is only natural, therefore, that there should be resistance to further loss of their land and rejection of the distortion or denial of their history and culture and defensive/offensive reaction to the continual linguistic and cultural aggressions and attacks on their way of life, their social and cultural integrity and their very physical existence. They have a right to continue to exist, to defend their lands, to keep and to transmit their culture, their language, their social and legal institutions and systems and their way of life, which have been illegally and unjustifiably attacked (Martínez Cobo 1987, 29).

The creation of the Working Group on Indigenous Populations, in 1982, is the most significant element in the U.N.'s interest in the situation of these populations. The Working Group quickly set to work on a project for international standards, and in 1993 a draft version of the Declaration on the Rights of Indigenous Peoples was finished and will be submitted to the U.N.'s General Assembly for adoption. In the interim, the General Assembly proclaimed 1993 the International Year of the World's Indigenous People and 1994–2004 the International Decade of the World's Indigenous People. It also approved the idea of creating the Permanent Forum on Indigenous Issues within the United Nations.

The draft version of the Declaration on the Rights of Indigenous Peoples is being studied by the Commission on Human Rights and is presently in the crucial stage of adoption by the member states. The stakes are high, as the present draft recognizes that Aboriginal peoples do not constitute racial, ethnic, religious, or linguistic minorities, but are rather free peoples that are equal to all others and that "have the right of self-determination" (article 3). As for the exploitation of natural resources on Aboriginal lands, article 30 of the draft proposes an end to unilateralist state policies and after-the-fact policies by requiring the "free and informed consent" of Aboriginal peoples "prior to the approval of any project affecting their lands, territories and other resources" (Working Group 1993).

In an article that appeared in the *Revue générale de droit*, the Cree lawyer Roméo Saganash explains what the recognition of the right to self-determination means for Aboriginal peoples: [TRANSLATION] "You do not have to be an expert in international law to determine what a people's right to self-determination means. Fundamentally, it is the right to exist, to flourish as a people, and to be respected as such by other peoples. It is the collectivity's equivalent of the individual's right to equality, dignity, and freedom.

Seen from this perspective, the right to self-determination is an inalienable, indivisible, and universal right" (Saganash 1993, 87).



A group of non-government organizations presses the Canadian government to support the adoption of the United Nations proposal for a Declaration on the rights of indigenous peoples. Invited to speak at the press conference held in Montreal on 21 June 2001, Kenneth Deer (in the photograph above) explains the significance of the Two-Row Wampum Belt, a powerful symbol of mutual respect and equality between peoples. The strands of wampum represent the two peoples accepting to live side by side, in peace and harmony, and without interference in the activities of the other.

Photo: Pierre Lépage



Rigoberta Menchu Tum, a Native person from Guatemala (in the centre of the photograph), received the 1993 Nobel Peace Prize. This photograph was taken during her trip to Montreal June 2001.

Photo: Pierre Lépage

FOR FURTHER INFORMATION

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Chief Deskaneh, seen here during his stay in Geneva in 1923-23, poses with members of the Iroquois Commission, a network that supported his cause.

At the right, a member of the organization holds the Two Row Wampum Belt that symbolizes the 1634 treaty between the Mohawks and the Dutch in the Hudson River valley.

Photo: Bibliothèque publique et universitaire, Genève.
Photograph by F. Martin



Chapter 5

SHARING TERRITORY

If ever there was an annoying and worrisome issue, it is certainly the issue of Aboriginal land claims. However, the question is surrounded by many myths. Is it true that Aboriginal peoples are claiming 80 per cent of Quebec as theirs? Are they going to end up with a large portion of the territory and deprive us of its resources? Won't these claims lead to the disintegration of Quebec?

What is the origin of these land claims? Why haven't we heard about them before? Isn't it inconceivable, as say some, that a handful of nomadic Amerindians, who roamed the woods that covered vaguely defined territories, today are claiming full ownership of these lands for their sole benefit? Moreover, many are anxious to affirm that we are not responsible for the errors of the past and that there is a limit to playing the guilt card.

A HIGHLY EMOTIONAL DEBATE

These issues are very passionate ones. And for good reason, because anything that affects territory affects collective identity and what makes a people, nation or an ethnic group feel different and above all valued. And if ever there was a people that identified itself with territory, open space and natural resources, and that obtained the greatest pride from these things, it is certainly Quebecers. In short, we all feel individually concerned. So why should we be surprised if the Aboriginal peoples feel exactly the same way?

To put this in context, we must first provide an overview of the situation. Who owns the land and the territory? Hasn't this issue long been settled? We will see that in terms of treaties, Quebec, British Columbia and the Northwest Territories differ from the rest of Canada. In fact, before the James Bay and Northern Québec Agreement was signed in 1975, no territorial treaty in Quebec provided for the Aboriginal peoples' surrender of their "rights, title and interest" to their lands. Although this is surprising, it is nonetheless true. If these rights have not been extinguished, is it possible that they still exist today? Do Aboriginal peoples hold a form of mortgage on the territory?

In the second part, we will endeavour to explain why the existing claims concern such vast territories. We will see that the negotiations that are underway to settle claims must take the approach of "sharing with" rather than "taking from." We will note that the fact of granting Aboriginal communities the right to exist does not mean that Quebecers must sacrifice something of themselves. Actually, the opposite is true, and that is reassuring. But let's begin at the beginning.

RESPECTING CONSENT

Although, from the initial contacts, the need to conclude alliances and treaties was imperative, these agreements did not deal

In October 1998, two students at Polyvalente Chanoine-Armand-Racicot in Saint-Jean-sur-Richelieu drafted a peace and friendship treaty like the ones between Europeans and Amerindians in the 17th and 18th centuries. Visiting Amerindians signed the document, which entreated the parties to establish a common future that was marked by mutual respect and harmony. Student representatives, school administrators, and a representative of the Commission des droits de la personne et des droits de la jeunesse also signed.



Photo: Rencontre Québécois-Autochtones, Pierre Lépage

with land titles. When Champlain sealed his very first alliance with the Montagnais in Tadoussac in 1603, he obtained authorization to settle on Aboriginal lands in exchange for military support. But nowhere did the Aboriginal peoples surrender their rights to



Cree Chief Big Bear's
encampment, Maple Creek,
Saskatchewan, 1883

Photo: G. M. Dawson,
Courtesy of the Geological
Survey of Canada

these lands. The first treaties, under both the French regime and the British regime, sought the development of friendly, peaceful relations. In

these agreements, the establishment of commercial ties was the primary concern because the colony depended on it.

Things changed after Britain's conquest of the French colonies in North America. King George III issued directives on the administration of the new colonies through the *Royal*

Proclamation of 1763. And so began the era of the great territorial treaties that would replace the military and commercial alliances. The road to colonization had to be paved in an orderly and peaceful fashion.

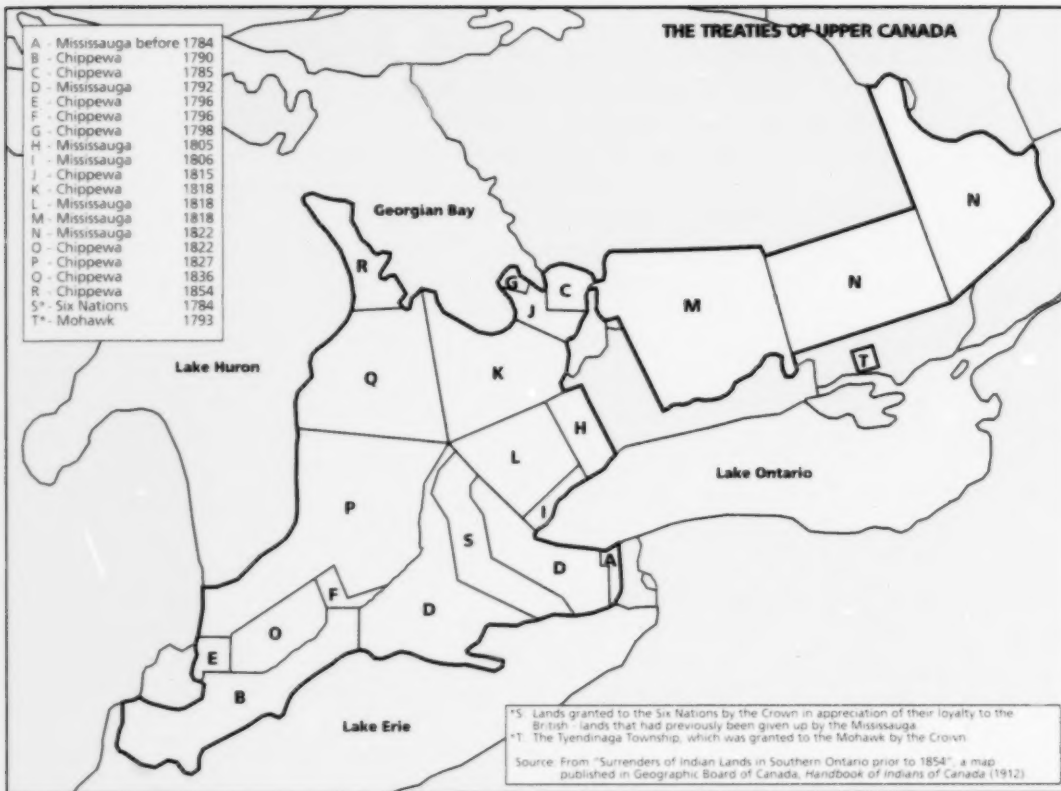
The text of the *Royal Proclamation* was explicit: to settle Aboriginal lands, the Aboriginal peoples' consent was required, and a procedure was even set out for obtaining it:

[...] but that, if at any Time any of the Said Indians should be inclined to dispose of the said Lands, the same shall be Purchased only for Us, in our Name, at some public Meeting or Assembly of the said Indians, to be held for that Purpose by the Governor or Commander in Chief of our Colony respectively within which they shall lie [...] (Extract from the *Royal Proclamation of 1763*).

THE TREATIES OF UPPER CANADA: PURCHASES FOR HARD CASH

The first treaties in the period between 1780 and 1850 were signed in southern Ontario. Immigrants who came from Great Britain after the Conquest sought to establish themselves in this region. A great many Loyalists, English colonists who were loyal to England and who fled the United States after the War of Independence in the American colonies, also sought refuge there. They certainly had to be accommodated somewhere.

The so-called Treaties of Upper Canada constituted a whole series of surrender agreements that opened up the regions to settlement. The Crown purchased the lands outright. It acquired the lands in exchange for lump-sum or annual payments, or annuities. According to the *Report of the Special Commissioners to Investigate Indian Affairs in Canada*, published in 1856, much of the land was surrendered for a pittance. Lands were surrendered [TRANSLATION] "... for a nominal amount... sometimes for goods, sometimes for an annuity that had no relationship to the value of the land" (Savard and Proulx 1982, 65). Hence, the Crown profited from these surrenders, which also marked the beginning of broken promises. For example, during discussions leading to the signing of a treaty between the Crown's representatives and Ojibway chiefs, in 1818, Chief Buckquaquet asked specifically that his people not be deprived of the right to fish, use



waterways, or hunt in areas where they could find game. Unfortunately, although these words were reported in the official record of the negotiations, nothing of the sort was recorded in the text of the treaty. Many years later, a Court of Justice would rule that the practices of the Ojibway were no longer protected, but were rather subject to the application of the provincial laws of Ontario. This was a bitter disappointment (Tilden 1978,7).

THE ROBINSON TREATIES: A CALL TO ORDER

In 1850, Sir William B. Robinson concluded two important treaties with the Ojibway of Lake Superior and Lake Huron on behalf of the British Crown. The treaties bore the names of Robinson-Superior and Robinson-Huron.

The Crown had granted lands and mining rights north of Lake Huron and Lake Superior without the consent of the Ojibway, who protested and mounted petitions. Because their claims were ignored, the Ojibway of the Sault Sainte-Marie region took action in 1849, occupying a mine and turning away the miners (Richardson, ed., 1987, 183). A lesson had been learned, and the Crown understood the importance of complying with the procedure set out in the *Royal Proclamation of 1763*: it had no other choice. Peace was essential for settlement and industrial development; treaties clearly had to be entered into. It was also a question of civility.



Portrait of a group of Ojibways, Long Lake, Ontario

Canadian Museum of Civilization, photograph by F. W. Waugh, MCC 36751

LOUIS RIEL AND THE MÉTIS REBELLION

In 1670, the king of England granted the Hudson's Bay Company the monopoly of the fur trade on the immense territory called Rupert's Land, which covered the entire Hudson's Bay watershed and extended to the Rocky Mountains in the west. Across this territory there were many marriages between fur traders and Amerindian women, and in time these gave rise to the emergence of a special people with a special culture: the Métis. On the prairies, a new language, Michif, was born of the mixture of French and of a number of Amerindian languages. Some Métis set up permanent encampments around trading posts; the buffalo hunt played an important role in the social organization of other, more mobile, Métis groups (Royal Commission 1996).



An engraving of Louis Riel

L'Opinion Publique, collection of Pierre Lepage

Shortly after Confederation, in 1869, the Hudson's Bay Company sold its rights to Rupert's Land to the government of the new Dominion. No-one bothered to inform the Métis and the Amerindian tribes of what was in store for them, and caravans of settlers set out from the East to grab the best land even before the transaction had been finalized. Fearing the invasion of their lands by the agricultural society that was coming, and sensing the threat to their way of life, in that same year Métis led by Louis Riel drove out a surveying team that had been sent by the government of Canada to mark out the way for the settlers (Canada, Indian Affairs 1997).

The newly appointed governor, sent out to administer the territory, was denied entry. Events began to move more and more quickly; the Hudson's Bay Company trading post in Fort Garry was occupied by the Métis. Suddenly in a strong position, the Métis set up a provisional government and adopted a declaration of rights that demanded that the territories known as Rupert's Land and the North-West would not enter Confederation unless it was with provincial status. The government had to enter into the negotiations that would lead to the adoption of the *Manitoba Act* in 1870. But when a prisoner held by the Métis provisional government was executed, the government of the Dominion dispatched troops to Manitoba. The promise of amnesty that had been made during negotiations was broken, and Riel had to flee.

While the *Manitoba Act* provided for lands to be granted to the Métis, this remained a largely unfulfilled promise. The Métis were unhappy and again called upon Louis Riel, who had taken refuge in the United States. Rebellion broke out in 1885. This time, two Cree chiefs, Big Bear and Poundmaker, rallied their peoples to the side of Riel. When settlers were killed during a skirmish with Poundmaker's fighters, the Canadian government sent 8,000 soldiers west, and the rebellion was quickly put down. Riel was accused of treason in 1885 and condemned to death, Big Bear and Poundmaker were imprisoned for two years, and eight Amerindians were hanged (Canada, Indian Affairs 1997).

The history of the settlement of the Canadian West focused so greatly on the Riel affair and the Métis rebellion that the conclusion of major treaties with the Amerindian nations was pushed well into the background. Nevertheless, Louis Riel remains a symbol both of resistance to the politics of *fait accompli* and of the desperate struggle against assimilation.

The Robinson Treaties would become a decisive factor in the course of subsequent events by serving as a model for the major treaties that would follow westward colonization after Canadian Confederation in 1867.

First, the Robinson Treaties involved vast territories, which was a new phenomenon. Another new aspect in the terms of these treaties was that the Aboriginal signatories had to renounce their land titles in exchange for portions of territories that were to be reserved for their exclusive use. Thus, the treaties provided for the creation of 20 small reserves. From that point on the notorious "Indian reserves" would be an element that was indissociable from the major treaties to follow.

The Crown was very anxious to obtain the consent of the Amerindian populations. But this consent was not easy to obtain. For this reason, treaty commissioners

A SHORT HISTORY OF TREATY NO. 6

Hostile Amerindians Block Construction of the Telegraph Line

In 1873, the Government of Canada delayed entering into treaties with the Amerindians of Western Canada. A member of the Geological Commission was ordered to terminate his activities by a group of hostile Indians. The following year, the federal government authorized contracts for the construction of a telegraph line between Thunder Bay, Ontario, and Cache Creek, British Columbia, that would blaze the trail for the construction of the Canadian Pacific Railway. The authorities again turned a deaf ear to the warnings that trouble could be expected if the telegraph-line team headed west before a treaty was concluded.

The Cree chiefs Mis-ta-wa-sis and Ah-tuk-u-koop and their troops took action in July 1875. They prevented the telegraph-line construction team from proceeding beyond the turn of the North Saskatchewan River, and they also stopped a Geological Commission's team that was exploring mineral and oil-drilling sites. The train transporting the equipment required by the telegraph-line team was met near Fort Carleton, and the leader was asked to order a halt to the work. He was also advised not to cut down any trees west of the South Saskatchewan River for use as telegraph poles.

A team working more to the east also encountered difficulties. Twenty-five Indian tents were erected near the work, and the protesters claimed cash payments for the lands used and the wood cut on the grounds that they were not parties to any treaty. The chief claimed payment of 50 cents per pole and threatened to have the line destroyed if the payment claimed was not made.

These actions had an immediate result. A government emissary, a well-respected Methodist missionary, was dispatched to the region with the government's promise to conclude a treaty the following year. The Western Cree accepted the proposal and called back their warriors, and the work resumed quickly. The following year, in the summer of 1876, Treaty No. 6 was concluded with the Prairie Cree.

(Events reported in Ronaghan 1976)



An engraving of Chief Abraham Mikaskokiseyin, signatory of Treaty No. 6

L'Opinion Publique, collection of Pierre Lepage

assured the signatory Aboriginal communities that they could continue to hunt and fish, even on the ceded lands, *as long as those lands were not required for settlement*. The Aboriginal peoples were therefore guaranteed, at least verbally, that



Chemin de fer du Pacifique Canadien.

Aux Capitalistes et aux Entrepreneurs

Le Gouvernement du Canada recueille des propositions pour construire et faire fonctionner une ligne de chemin de fer depuis la Province d'Ontario jusqu'aux eaux de l'Océan Pacifique, la distance étant d'environ 2,000 milles.

Le mémoire des informations, pour ceux qui désireront faire des propositions, sera envoyé sur demande comme ci-dessous. Les rapports des ingénieurs, les cartes du pays à traverser, les profils de la ligne explorée, les spécifications des travaux préliminaires, des copies de l'acte du Parlement du Canada, d'après lequel il est proposé de construire le chemin de fer, des descriptions des particularités naturelles du pays et des réserves agricoles et minières, et autres informations, pourront être vues en s'adressant à ce Département ou à l'ingénieur en chef, aux bureaux du Gouvernement Canadien, 31, rue Queen Victoria, E.C., Londres.

Des soumissions cartonnées marquées : "Commissions pour le Chemin de Fer du Pacifique," seront reçues adreçables au sousigné, jusqu'au 1er jour de DÉCEMBRE prochain.

[Par ordre]

F. BRAUN,
Secrétaire.

Département des Travaux Publics,
Ottawa, 20 mai 1878.

AVIS. — EXTENSION DE TEMPS

La date fixée pour recevoir les propositions mentionnées dans l'annonce ci-dessus, est par le présent ajournée au 1er JANVIER 1879.

[Par ordre]

F. BRAUN,
Secrétaire.

Département des Travaux Publics,
Ottawa, 2 sept. 1878.

L'Opinion Publique, collection of Pierre Lepage

once the document had been signed they could continue to live as they had previously. Why then should they refuse to sign a treaty that guaranteed the Crown's protection and the possibility to live as before? Confusion and miscommunication reigned.

THE POST-CONFEDERATION NUMBERED TREATIES

In 1867, the Fathers of Confederation signed the *British North America Act*. This act required new treaties. The great Canadian dream was built around the settlement of lands west of the Great Lakes, which were occupied by various Amerindian nations. These lands were appropriated and made available to settlers, who were encouraged to come in large numbers. Lands were offered free of



Blackfeet by the railway

Photo: National Archives of Canada,
C 16717

settlers, who were encouraged to come in large numbers. Lands were offered free of



charge to attract these new settlers, and a little later a large-scale advertising campaign was launched. At the same time, treaties were concluded to ensure that the railway could be extended to the Rockies.

Over a 50-year period, eleven major treaties, known as the *Post-Confederation Numbered Treaties*, were concluded. The map opposite depicts their evolution and the size of the territories concerned.

How could the Amerindian nations of Ontario and the Western provinces have ceded their rights to such vast territories? The scenario is as follows. The numbered treaties were generally concluded rather quickly. Government-appointed commissioners usually left Ottawa armed with a pre-established document, and there was little room for real negotiation. The commissioners plied lakes and rivers seeking to meet various Indian groups. If there were no chiefs or council members, the groups were asked to elect spokespersons who would sign the document. With the assistance of an interpreter and very often through a missionary, the treaty was normally presented to the Amerindians on a "take-it-or-leave-it" basis. Very often, the Aboriginal peoples were advised that non-adherence to the treaty would not prevent the settlers from invading their lands and would deprive them of treaty benefits. The chiefs and council members, who were generally illiterate and ill-informed of the legal scope of the document, were then asked to affix their signatures—most often by means of an X.

TREATY BENEFITS

At the very heart of all these major treaties is the notorious cession clause, which reads as follows: the Aboriginal peoples "do hereby cede, release, surrender and yield up to the Government of the Dominion of Canada, for Her Majesty the Queen," all their rights, titles, and privileges to the lands described in the document.

In return, Aboriginal peoples were offered exclusively reserved parcels of land known as Indian reserves—which would not actually belong to them. The federal government remained the sole owner of these lands and managed them on behalf of the Amerindians. The terms of Treaty 8 give us a good idea of treaty benefits: in the first year, a present of \$30 for each chief, \$22 for each council member, and \$12 for everyone else, and for each subsequent year \$25 for the chief, \$15 for each council member (with no more than two or four council members, depending on the size of the band), and \$5 for everyone else, of any age, payable to the head of the family. After the signing of the treaty, each chief would be given a silver medal and a flag; every three years, each chief and council member would receive a suit of clothes. Treaty 8 also provided for the salary of a school teacher and, for each chief choosing the reserve, ten axes, five saws, five augers, one grindstone, and assorted files and sharpening stones. In addition, for each band that decided to



Canoes of the commissioners responsible for Treaty No. 9 arrive at Long Lake, Ontario, in 1909.

Photo: National Archives of Canada, PA 59577

Commissioner Cain, representing the government, addressing Amerindians gathered in Asnaburgh, Ontario, in 1929, in order to convince them to subscribe to Treaty No. 9. He is assisted by interpreter Larry Vincent.

Photo: National Archives of Canada, C 68926



The annual ceremony at which treaty payments were made. Every year the Amerindians who had signed treaties (or their descendants) receive the sum of \$4 or \$5. Vermillion, Peace River, 1927–28.

Photo: National Archives of Canada, PA 134996



cultivate the soil, two hoes, one spade, one scythe, and two pitch forks would be given to each family, in addition to a plough and a harrow. Cattle would be provided to bands and families that decided to engage in agriculture and livestock production. For others who wished to continue hunting and fishing, ammunition and string to make nets would be provided annually.

OPPOSITE VIEWS ON TREATY TERMS

In the mind of the government, the objective of the treaties was to eliminate any obstacle that was likely to hinder the arrival of settlers, the clearing of arable lands and the exploitation of resources west of the Great Lakes. The Amerindians were also to be encouraged to gradually abandon their way of life and assimilate by taking up agriculture. However, the Aboriginal peoples' concern for preserving their own way of life was present in every discussion. This was only normal, but it meant that the parties to the treaties had diametrically opposed views on the terms of the document and its

NUMBERED TREATIES:

DOUBTS ABOUT THE ABORIGINAL PEOPLES' FREE AND INFORMED CONSENT

[TRANSLATION] "Several factors lead to the belief that the Aboriginal people's consent to certain treaties may have been flawed. The first reason for this is obviously the non-existence of the notion of private property in traditional Aboriginal conceptions of the relationship between human beings and the earth. Hence, it was necessary for the government commissioners to explain in detail what was meant by a cession of territory. However, this does not seem to have been done. During the negotiations, the emphasis was often placed on the unlimited right to hunt and fish and on the preservation of the Aboriginal way of life. A study conducted of Alberta tribal elders showed that the Aboriginal peoples understood little or nothing about the significance of territorial cession. A bold judicial decision had even taken into account the possibility of a 'failure in the meetings of the minds.' Moreover, a commission set up in 1957 to investigate the implementation of Treaties Nos. 8 and 11 concluded that the Aboriginal peoples did not understand the content of these treaties, in particular because of the very poor translation of the negotiations as well as the confidence that the presence of priests and highly respected civil servants inspired in them. But all of this is relatively recent: the commissioners must have noticed that the Aboriginal peoples could not differentiate between hunting rights and land-ownership rights. Since the negotiators had assured the Aboriginal peoples that they could always continue to hunt, it can be inferred that there was a major distortion between the Aboriginal comprehension and the European comprehension of these treaties. Other irregularities also seem to have been perpetrated, such as the designation of Aboriginal chiefs by government commissioners and not by the Aboriginal peoples themselves. It goes without saying that the individuals chosen were favourable to the conclusion of treaties that were in the interests of the Crown."

(Grammond 1995, 107-108)

objectives. First, the very notions of private property and cession of rights were completely foreign to Aboriginal societies. In these societies, notions pertaining to land had to do with the relationship between territorial responsibility and custodianship. Since land belonged to no one, it could not be ceded or sold.

In its report made public in 1996, the Royal Commission on Aboriginal Peoples came to the conclusion that "accounts of negotiations leading to the historical treaties are full of stories of miscommunication and cross purposes." The verbal

promises made by government representatives during negotiations indicated that the historical evidence was undeniable: "the written treaties often are not a full and fair statement of agreements reached." It is not at all certain that conditions essential for genuine negotiation and free and informed consent on the part of the Amerindian nations were established. And in Quebec, have we done any better?

IN QUEBEC, A TROUBLING OBSERVATION

In viewing the map of land treaties signed during the last century and at the beginning of this one, one arrives at a troubling observation: during that period, no treaties of the sort were concluded in Quebec. This was also the case for virtually all the territory of British Columbia and most of the Northwest Territories and the Maritime provinces. As mentioned at the beginning of this chapter, it was not until 1975 that the first modern-day land treaty was concluded in Quebec, when the James Bay and Northern Québec Agreement was signed with the Cree nation and the Inuit of the North, in connection with the work involved in the James Bay hydroelectric



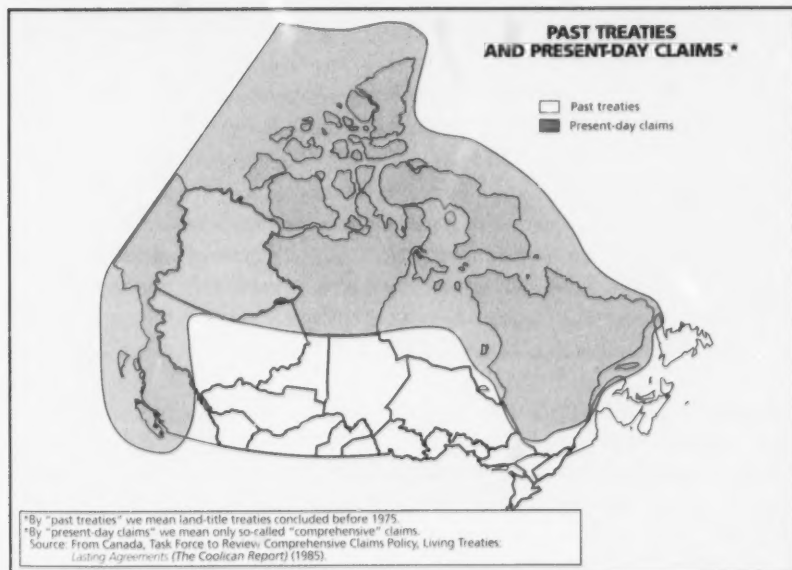
NATION-TO-NATION AGREEMENTS

Treaties are not admissions of defeat or submission. Parties to a treaty do not give up nationhood or their own ways of living, working and governing themselves. Rather, they acknowledge their shared wish to live in peace and harmony, agree on rules of coexistence, then work to fulfil their commitments to one another.

(Reported in the Royal Commission on Aboriginal Peoples 1996)

The famous silver medal given to each chief and councillor who signed the numbered treaties. On the obverse side is an effigy of Queen Victoria.

Photo: National Archives of Canada, PA 123917



development. In 1978, the Naskapi nation in the Schefferville region signed a similar agreement called the Northeastern Quebec Agreement. Since then, no other treaty has been entered into in Quebec.

The majority of the Indian nations living in Quebec maintain that they have never ceded their rights to their ancestral lands. They are right, and this is why negotiations must be held to settle their land claims. What portion

of the territory of Quebec is covered by their current claims? The portion that is not covered by any treaty. In fact, looked at together, the treaty map and the claims map are somewhat akin to a photographic negative and the printed photograph. Many Quebecers feel a certain amount of anguish and even guilt when they discover that in Quebec Aboriginal land claims have never been settled. For some, discovering this is like getting a bucket of

cold water in the face. However, if this situation appears to be a historical aberration, there is surely something to be learned from it. We have observed that the way Canada obtained its numbered treaties is not very commendable.

QUEBEC ENTERS INTO TREATIES

In 1923, the signing of Treaty No. 9, covering the northern part of Ontario, marked the end of an era. No new treaty would be entered into for more than fifty years. The Canadian government's policy consisted of ignoring ancestral rights. In 1973, however, a judgement of the Supreme Court of Canada (the *Calder* ruling) compelled the federal government to end this policy and conclude new treaties.

In 1975, after a long political and legal dispute surrounding the James Bay hydroelectric project, the Grand Council of the Crees of Quebec and the Northern Quebec Inuit Association entered into an agreement with the Government of Quebec, the Government of Canada, and three Crown corporations: the James

Bay Development Corporation, the James Bay Energy Corporation, and Hydro-Québec. The James Bay and Northern Québec Agreement thus became the first treaty of the modern era, as well as the first settlement to be reached in Quebec regarding Aboriginal lands and land titles. In 1978, an agreement of the same nature, the *Northeastern Québec Agreement*, was entered into with the Naskapi of Schefferville.



The signing ceremony of the James Bay and Northern Québec Agreement, 11 November 1975. Cree Chief Billy Diamond and Makivik Corporation President Charlie Watt are surrounded by Premier Robert Bourassa, federal Minister of Indian Affairs Judd Buchanan, Quebec government ministers, and representatives of crown corporations that were signatories to the agreement.

Photo: J. Krieger,
National Archives of Canada, PA 143013

In addition to the payment of considerable financial compensation, these agreements provided for the establishment of a hunting and fishing regime that would better protect the rights of the Inuit, the Cree and the Naskapi; these were priority and, in some cases, exclusive rights. The agreements also provided for the establishment of an innovative guaranteed-annual-income program for hunters and trappers. To the Aboriginal signatories of these

agreements, it was especially important that future northern development take place in cooperation with the Aboriginal nations affected by it. Protection of the environment, fauna, and flora were accorded special attention, and joint committees were formed. The James Bay and Northern Québec Agreement contained remedial measures to reduce the negative impact of the work on the hydroelectric project. Among other things, it provided for the relocation of the community of Fort George, which was to be flooded.

What could have been a process espousing fundamental equality, reciprocal recognition and mutual respect between the parties proved to be a process tainted by a highly unbalanced power relationship, discord and contempt, and even lies and fraud. Quebec can do better as far as treaties are concerned. And it did do better, in several respects, when the first treaties were signed with the Cree, the Inuit and the Naskapi, more than twenty years ago.

A MATTER OF SHARING

The *James Bay and Northern Québec Agreement* and the *Northeastern Québec Agreement* clearly illustrate that land claims must be considered a matter of sharing and cooperation rather than dispossession. Quebec has gained much from these agreements, which assured

territorial integrity and then more recently provided the possibility of developing the resources of vast regions that represent nearly two-thirds of Quebec, or a little more than the area of the entire province of Ontario.

These first two major treaties of the modern era promoted the establishment of several institutions that were intended to permit the Cree, the Inuit, and the Naskapi to better control their destinies.

An Old Colonial Practice Persists

Early treaties and modern treaties have only one fundamental thing in common. Just like the post-Confederation numbered treaties, both provide for the prior extinguishment of all Aboriginal "rights, title and interest" on and to the lands concerned. In exchange for this extinguishment of ancestral rights, the signatory nations are granted the rights and privileges that have been partially outlined in the previous paragraph. To date, no settlement has been possible if the Aboriginal peoples concerned refused to submit to the extinguishment procedure.



The financial compensation provided for by the James Bay and Northern Québec Agreement allowed Cree authorities to establish profitable companies like Air Creebec.

Photo: Jimmy Sam, MEQ collection

In 1978, the Commission des droits de la personne of Quebec questioned this practice, which it deemed incompatible with the principle of the equality of the negotiating parties. The Commission also considered it unacceptable that these agreements extinguished the rights of nations that were not party to the agreements and that had claims on these vast territories. In particular, this was the case of the Algonquin, the Atikamekw, and the Montagnais: part of their ancestral lands overlapped the territories concerned. The Royal Commission on Aboriginal Peoples recommended that this procedure be abandoned. Very recently, the United Nations Human Rights Committee deemed this practice of the Government of Canada incompatible with article 1 of the *International Covenant on Civil and Political Rights*. This article ensures the inalienable right of all peoples to self-determination and their right to dispose freely of their natural wealth (United Nations 1999).

Today's treaties represent a unique opportunity to re-establish the dignity of the Aboriginal peoples, remedy certain errors of the past, and look to a future of peace and harmony together. Hence, it is essential to build these relations on a basis of equality. Recent developments seem to indicate that we are going to the right direction.

The land regime set out in these contemporary treaties clearly demonstrates that Quebecers are very unlikely to lose anything. Category 3, or public, lands represent over 84.3 per cent of this vast territory and are generally accessible to all citizens. Aboriginal peoples have access to them to fish, hunt and trap as in the past, but without holding an exclusive right to them, except for trapping. Exclusive rights are limited to Category 1 and 2 lands, which represent only 15.8 per cent of the territory. But even at that, Quebec can use certain lands (Category 2 lands) for development purposes, provided it replaces them with equivalent lands. In short, everyone seems to benefit.

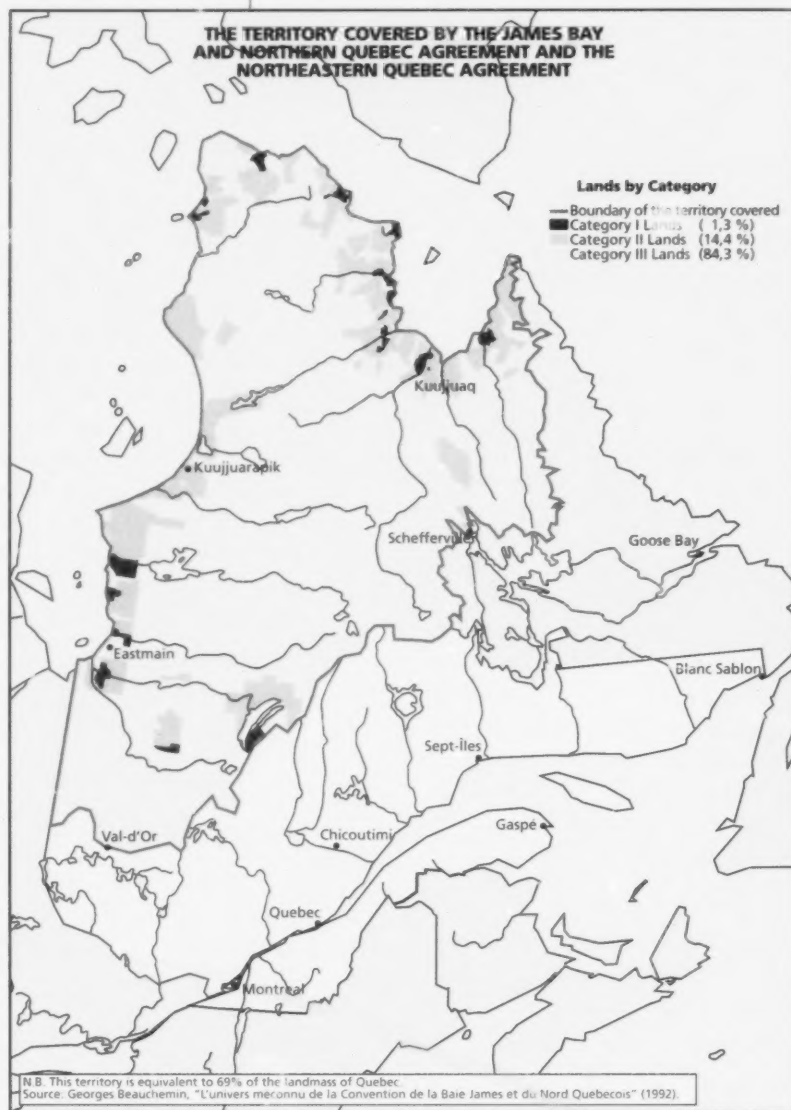
The case of the salmon rivers represents another striking example of cooperation and interdependence to be established between the Quebec majority and the Aboriginal peoples. There are over 110 salmon rivers in Quebec. Since no territorial treaties were entered into in

Quebec before 1975, it could be expected that the majority of these much-coveted salmon rivers would be the subject of claims. But this is not the case. Current claims in fact have been laid to only ten or so of these rivers. Is this really so many? And even among the rivers concerned, fishing rights in several cases

SHARING TERRITORY

Category 1 lands are set aside for each Cree and Inuit community for their exclusive use. They are located within and around the villages in which the Cree and Inuit customarily live. Category 2 lands are contiguous to Category 1 lands and form a belt representing an exclusive hunting and fishing area for beneficiaries living on Category 1 lands. Category 2 lands are in the public domain and can be developed for other purposes, provided the parcels of land affected are replaced by others. Category 3 lands are public lands to which Aboriginal peoples did not receive a right of exclusive occupation, but on which they can pursue their hunting, fishing and trapping activities year-round as in the past, without legal constraint.

(Beauchemin 1992)



apply only to a portion of the waterway and do not affect the access of other users. Is there really a significant difference between a salmon river administered by Quebec and another administered by Aboriginal peoples, if the entire Quebec population continues to have access to it? Once again, both parties seem to benefit—provided, of course, they share.

NUNAVUT, THE LARGEST LAND-CLAIM SETTLEMENT IN CANADA

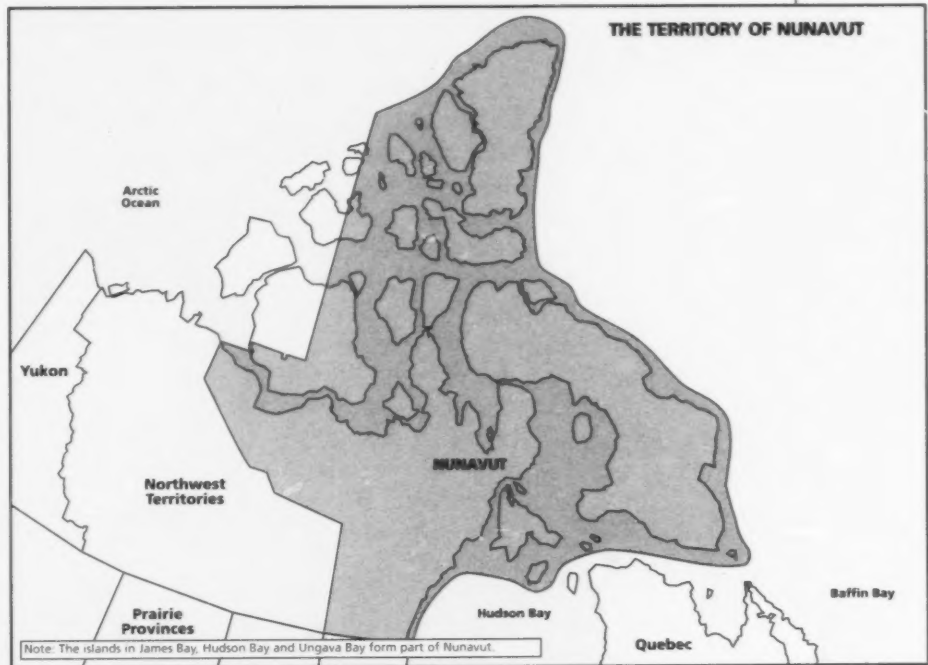
Since April 1, 1999, Canada has had a new territory, Nunavut, which in the language of the Inuit means "our land." The territory is immense, representing one-fifth of the area of Canada, and has an area of two million square kilometres. This vast expanse has a total population of 25,000 persons, of whom 85% are Inuit. Nunavut is comprised of 28 communities, including the new capital, Iqaluit.

The creation of this vast territory arose from the settlement of land claims presented by the Inuit of the eastern Arctic. The Nunavut accord is the largest Aboriginal land-claim settlement ever achieved in Canada. It grants the Inuit of Nunavut title to a region totalling some 360,000 square kilometres in the eastern and central Arctic, and it specifies the

ownership rules as well as the mechanisms for management of the lands, water, seas, and resources of the new Nunavut Territory, which represents one-fifth of the entire territory of Canada. The creation of Nunavut, a separate territory with its own government, fulfils an aspiration long-held by the Inuit of the eastern and central Arctic: control of their own destiny (Inuit Tapirisat of Canada 1995).

The territory is administered by a "people's government" elected by all residents, whether Inuit or non-Inuit. In fact, however, since the Inuit are clearly in the majority, the elected parliament is very likely to reflect Inuit culture and concerns. In Nunavut, 56 per cent of the population is under 25 years old; creating jobs for these young people is a very important challenge. The cost of living is two to three times higher than in southern Canada.

(Sources: Canada, Indian Affairs 2000; Inuit Tapirisat 1995)



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Amerindians of
the Stoney
Nation in
Banff, British
Columbia, 1915

Photo: E. M. Kindel,
Courtesy of the
Geological Survey
of Canada



Chapter 6

OVERCOMING PREJUDICE

The idea that Aboriginal peoples have privileged status and even that they have rights that are superior to those of other citizens living in Quebec is one that you can hear spoken of everyday; it now forms part of popular belief. Two opinion polls taken in 1992 and 1994 confirm this.

In the first poll taken by the Léger and Léger Group on behalf of the *Journal de Montréal* in December 1992, 66.5 per cent of respondents affirmed that the Aboriginal peoples of Quebec had rights that were greater than those of other citizens. In March 1994, SOM's poll of Quebec Francophones and Anglophones on behalf of La Presse and

Radio-Québec revealed that 52 per cent of the Francophones polled said they were of the opinion that the quality of life on the reserves was somewhat or much better than that of Quebecers living in the rest of Quebec. Still more surprising was that fact that only 9 per cent of Francophone respondents were of the opinion that the living conditions were much worse on the reserves than in the rest of Quebec. The results indicated that Quebec Anglophones did not share this point of view.



The boundary between the expression of ideas and the display of intolerance is easily crossed in times of crisis. In August 1988, residents from around Pointe-à-la-Croix block access to New Brunswick in a counter-demonstration protesting the barricades that Micmac from Listuguj had erected earlier. This photograph, which was published on the front pages of major newspapers, speaks volumes about the states of mind of the demonstrators. The sign conveys the widely held prejudice that all Aboriginal peoples are constantly "exploiting the system."

Photo: Canadian Press

**« AVEC
SUPER ECONO,
PLUS BESOIN
D'HABITER
À KAHNAWAKE
POUR PAS
PAYER CHER DE
CHAUFFAGE! »**

— Gerry Gauthier, président Super Econo, Québec.
Avec Super Econo, vous ne payez rien! Tout le monde profite du meilleur service aux meilleurs prix possibles et du plan d'entretien le moins cher de l'industrie. Parce qu'avec Super Econo, ce n'est pas un privilège, c'est une nécessité.

856-0120

**SUPER
ECONO**

ON VEND DE L'HUILE À CHAUFFAGE.

In September 1994, one company had no qualms about exploiting popular prejudice against Aboriginal peoples. This full-page advertisement appeared in the major French-language newspapers in the Montreal region; no doubt it relied on a opinion poll that had been published a few months earlier. The small print suggests that the Mohawk enjoy special privileges that they do not deserve: [TRANSLATION] "With Super Econo there's no special treatment! Everyone gets the best service at the best possible prices and with the least expensive service plan in the business. Because keeping warm in the winter isn't a privilege, it's a must."

A DISTORTED PERCEPTION

So what is the truth? Are Aboriginal peoples shown favouritism? Are they as privileged as is claimed, and do they have more rights than the majority of citizens?

In a previous chapter entitled "Dealing With Different Rights," we noted that, far from constituting a regime of privilege, the *Indian Act* actually constitutes a regime of Amer-

A NON-EXISTENT REAL-ESTATE MARKET ON AMERINDIAN RESERVES

There is no chance of finding a "For Sale" sign in an Amerindian community. The constraints imposed by the *Indian Act* mean that very few Amerindians are likely to become homeowners. When they do own their own homes, they cannot hold a true property deed. At the very most, they may hold certificates of possession or occupation. These lands are transferable only to the community or another Amerindian. Thus, there is no free-market system, and the houses do not have any market value per se.

Indian guardianship. And guardianship means constraint, dependence, absence of autonomy, and deprivation of certain rights and freedoms, in particular regarding testamentary matters, access to property, and the free disposition of certain personal property.

However, the idea that Aboriginal peoples have special priv-



Photo: Pierre Lépage

FINANCING BAND COUNCILS: AN ISSUE THAT FUELS PREJUDICE

We are often amazed at the size of the budgets allocated to band councils, which administer services on Indian reserves, compared to those allocated to municipalities of comparable size. However, no municipality in Quebec is responsible for providing health services, education, and social services. With regard to housing, for example, the restrictions arising from the guardianship regime set out in the *Indian Act* oblige band councils to assume significant responsibilities in the areas of funding, property access, building management, and the management of all reserve lands. For band councils, these responsibilities are in addition to the other services generally assumed by municipalities. However, funding is the area in which Indian reserves and municipalities differ the most, as demonstrated by Louise Séguin's article published in *Municipalité* in 1995:

[TRANSLATION] "In Quebec, the revenues of small municipalities are derived primarily from property taxes collected from their residents. These revenues enable the municipalities to be at least 90 per cent self-financing: compared to Amerindian communities, they enjoy greater

financial autonomy when it comes to paying the bills arising from their more limited jurisdiction. Municipal councils are acknowledged as a level of government, their relationship with Quebec's ministère des Affaires municipales not being one of financial dependence or guardianship even though the ministry still maintains general responsibility for the municipal system.

"The funding of band councils for the most part comes from the federal government, which is designated as 'trustee' of the Amerindians by the *Constitution of Canada* and the *Indian Act*. Amerindians do not own the reserve lands. In addition to government funds, certain communities can rely on revenues from the companies they own. The financial compensation received from development projects for the effects that these may have on their populations also constitutes sources of revenue for some of these communities. The proportion of contributions from the community may vary enormously, but it rarely exceeds 25 per cent of the budget."

(Séguin 1995)



Photo: Michèle Morel

ileges is so widespread that a majority of people have not surprisingly come to believe that Aboriginal peoples live as well as or better than other Quebecers. Without realizing it, we have taken the idea of "privilege" and turned it into "privileged." However, daily life in the majority of Aboriginal communities is the complete opposite.

In 1991, for example, just before the polls were released, Quebec's Minister of Aboriginal Affairs described the circumstances of Aboriginal peoples as being under-developed in almost all sectors. He pointed out that Aboriginal peoples had an illiteracy rate four times higher than Quebec's rate, an infant-mortality rate three-and-a-half times higher, a suicide rate six times higher for those under the age of 20, a 33 per cent lower income, and so on (Government of Quebec 1991).

THE TRUE FACE OF ABORIGINAL COMMUNITIES

Another study, conducted in 1991 by the sociologist Pierre Drouilly, comparing the situation on Amerindian reserves and in northern villages with the situation in Quebec as a whole, concluded that the Aboriginal populations of Quebec were experiencing disastrous economic conditions that contributed to deteriorating social relationships. He found that all data available and all social indicators combined to describe deplorable living conditions (Drouilly 1991, 44).

Even though Drouilly's study is a few years old, it can still provide data that we can use both to compare the Aboriginal nations, where the significant inequalities exist, and to compare those Aboriginal nations with Quebec as a whole. In particular, we learn that:

- Families with five or more members are four times more numerous in Aboriginal communities than they are in Quebec as a whole.
- Only one-half of Amerindian students complete secondary school.
- There is virtually no job market on the reserves and therefore very little economic activity.
- Even during the summer, when seasonal activities are at their peak, unemployment is two to three times higher than it is in Quebec as a whole.
- The average total income of men in Aboriginal communities is equal to 57.5 per cent of the average total income of men in Quebec. For women, the average total income is 74.1 per cent of that of women in Quebec.
- A high level of poverty is exacerbated by a high birth rate. The per-capita income of \$4,874 (versus \$11,302) is approximately 40% of the per-capita income of Quebec as a whole.

Although some progress has been recorded in certain sectors (a slight improvement in the education of Aboriginal students, for example), many observers agree that the situation has changed little in the last ten years.

ABORIGINAL YOUTH ARE ESPECIALLY VULNERABLE

More recent, if partial, data on the social and economic situation of Aboriginal peoples living in Quebec were brought to light in 1998 by the Government of Quebec's policy document entitled *Partnership, Development, Achievement*. The situation is of great concern, as demonstrated by the following extract:

THE SITUATION OF ABORIGINAL COMMUNITIES IN COMPARISON WITH QUEBEC AS A WHOLE ACCORDING TO THE 1986 CENSUS

Families with five or more members

➤ Aboriginal nations	44.0%
➤ Quebec as a whole	11.7%

Persons with fewer than nine years of education

➤ Aboriginal nations	50.2%
➤ Quebec as a whole	23.9%

Persons having attended university

➤ Aboriginal nations	5.3%
➤ Quebec as a whole	15.9%

Unemployment rate (July 1986)

	Men	Women
➤ Aboriginal nations	31.8%	26.14%
➤ Quebec as a whole	12.0%	14.4%

Average income in \$

	Men	Women
➤ Aboriginal nations	\$12 424	\$8 890
➤ Quebec as a whole	\$21 593	\$11 992

Per capita income in \$

➤ Aboriginal nations	\$4 874
➤ Quebec as a whole	\$11 302

Source: Deming, 1991



According to Statistics Canada and the Bureau de la statistique du Québec, the unemployment rate among aboriginal people is holding at double the average

A group of children
of Uashat and Malinotnam, Cote-Nord.

Photo: Fernand Lussier

rate for other Quebecers. They earn less income and depend to a greater extent on transfer payments; the average income of aboriginal households is 20% less than that of other households in Quebec, while aboriginal households are almost twice as large; employment income accounts for 77% of total income of Quebec households, compared to only 42% among aboriginal people.

Aboriginal people are much less likely to go on to secondary and post-secondary education. More than 40% of aboriginal people have not completed secondary three, compared to 20% for Quebecers as a whole. While the data in this regard

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*A group of children
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Photo: Pierre Lépage

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are incomplete, dropping out of school, even at the primary level, is very worrisome in most aboriginal communities. For instance, in some of them, the drop-out rate is 10% in primary school and reaches 50% by the third year of secondary school.

The aboriginal population is very young, younger than that of Quebec as a whole. Those under 14 account for 20% of Quebec's total population and 30% of the aboriginal population. Among the Cree, the Inuit, the Atikamekw and the Montagnais, this proportion reaches 40%. Their communities must prepare to receive this wave of young people who will soon be entering the labour market.

This demographic surge among aboriginal people could, in the near future, cause serious social problems in communities that

*A group of children
in Salluit, Nunavik*

Photo: Michèle Morel



already have their hands full. If the increase in population takes place in a difficult socio-economic context, it could generate tensions between aboriginal communities and Quebec as a whole (Government of Quebec 1998, 10-11).

In summary, this recent information should be enough to convince us that Aboriginal living conditions are far from enviable. And although the situation appears to be a little less difficult in Quebec than it is elsewhere in Canada, it is nonetheless unacceptable in our own society. To maintain that Aboriginals are privileged citizens who live as well as or better than Quebecers reveals ignorance or even misinformation.

**THE BUDGET
OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT**

"More than 80% of DIAND's Aboriginal programming expenditures are for basic services which are provided to other Canadians by provincial, municipal and territorial governments."

(Indian Affairs and Northern Development. *Aboriginal Funding*)

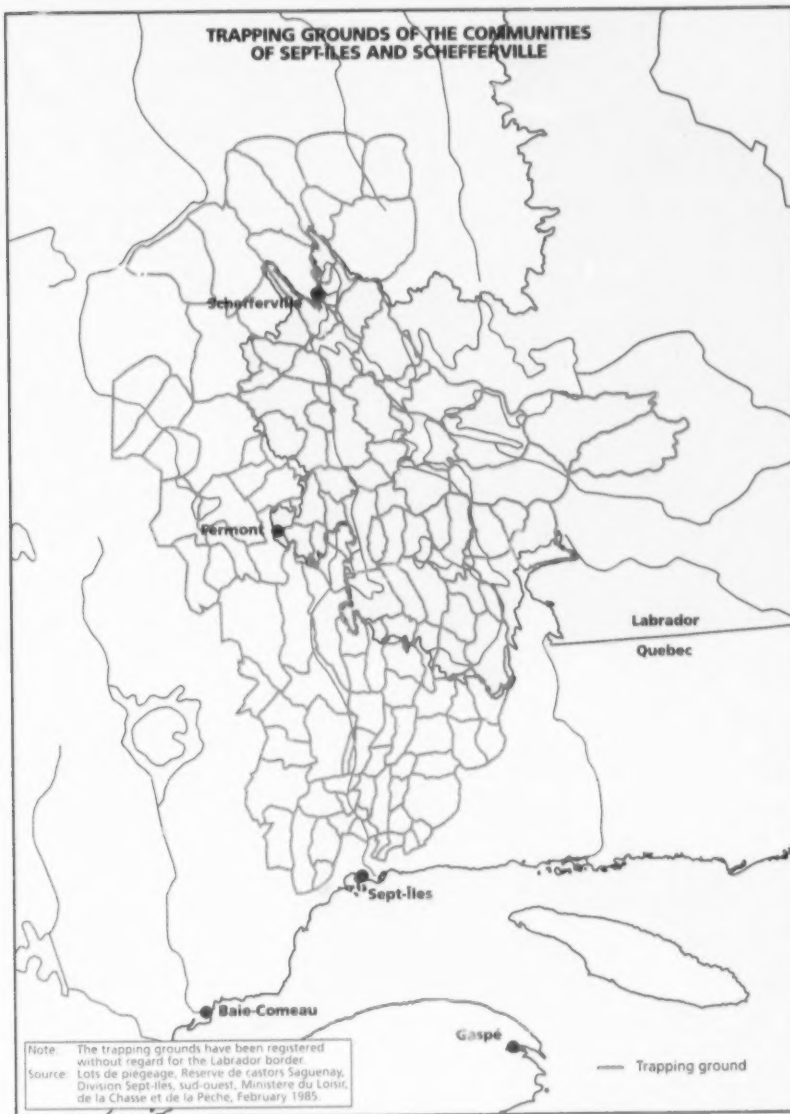
SPECIAL HUNTING AND FISHING PRIVILEGES?

Aboriginal peoples have always retained important hunting, fishing, and trapping rights that are distinct from those enjoyed by other Quebecers. In some cases these are priority rights; in others they are exclusive rights. Interest groups often attempt to present this situation as a form of preferential treatment or as discrimination against the ordinary citizen, but in chapter four we saw that the existence of distinct rights is not incompatible with the affirmation of the right to equality as it exists in our charters of rights and freedoms. Special situations may demand that if certain groups are to have equality they must have distinct rights. It is for this reason that since 1982 the Canadian Constitution has formally acknowledged that Aboriginal peoples have special rights because of the fact that they were

occupying the territory before the Europeans arrived: this is what is meant by "ancestral rights." In the case of the Cree, the Inuit, and the Naskapi (all of whom signed treaties with the governments of Quebec and Canada), these are "rights and freedoms resulting from treaties" that are protected by the constitution.

Moreover, the right to preserve cultural life and customs is a basic human right that is protected by section 43 of the *Charter of Human Rights and Freedoms* of Quebec and under international law by section 27 of the *International Covenant on Economic, Social and Cultural Rights*. The Human Rights Committee of the United Nations recently observed that culture can take many forms and that it often expresses itself through a distinct way of life that is associated with the use of natural resources, and that this is often the case for Aboriginal peoples. The committee went on to state that exercising these cultural rights could require that the law prescribe positive measures and ones that would guarantee





that the members of minority communities could participate effectively in the process of taking the decisions that affect them (United Nations 1994, 3-4).

The way that Aboriginal peoples hunt, fish, and trap bears witness to a special kind of land use. Governments have tried to control these activities as far back as the 1930s, an era when both wildlife and the Aboriginal way of life were in peril because of abuses by non-Aboriginals. In response to this, Quebec (with the assistance of the federal government) established a vast network of hunting preserves for fur-bearing animals, commonly known as "beaver preserves," that still exist. The 232,500 square kilometres of territory they cover represent almost 80 per cent of Quebec. Each beaver preserve is subdivided

into tracts of land on which an Aboriginal family holds exclusive rights to hunting and trapping fur-bearing animals. However, this system did not protect the Aboriginal peoples against other development activities going on at the same time—all too often in the past Aboriginal families would find that their land was a forestry company woodlot or would see it flooded or otherwise affected by development, almost as though they did not even exist. It is easy to understand why situations like this could lead to conflict.

This particular regime, although little known to the general public, shows that the activities and rights of Aboriginal peoples extend far beyond the limited territories of the Indian reserves, which provide permanent residence for the majority of Amerindian communities. The distinction needs to be made between Indian reserves and hunting preserves. The existence of this regime also shows that Quebec is not made up of an undifferentiated piece of land but rather of territory that Aboriginal peoples continue to belong on and for which they are responsible.

**ABORIGINAL COMMUNITIES:
AN IMPORTANT LINK IN REGIONAL ECONOMIES**

In 1992, the population of Chibougamau was concerned about the economic repercussions of the Westminer mine closing. The town's population had been in constant decline since the early '80s,

dropping from 12,000 to 9,000. In these difficult times, as reported by the journalist Pierre Gingras, the Cree rescued the region's economy: [TRANSLATION] "No one in Chibougamau has any doubt about it: the Cree are sustaining much of the town. In reality, since the closing of one mine after another, the town's principal 'natural resource' has been the Amerindians." Chibougamau's mayor reiterated this, stating: [TRANSLATION] "Without the contribution of the Cree, I seriously wonder what would happen to our businesses" (Gingras 1992).



A group of Cree workers at the opening of the sawmill in Waswanipi, an enterprise that resulted from the partnership between a Cree corporation and a pulp and paper company. Operations began in 1997.

Photo: Serge Gosselin, MEQ collection

Chibougamau is surrounded by three Amerindian communities: Mistassini, which in 1992 had approximately 2,300 inhabitants; Waswanipi, with just over 700 inhabitants; and the new village of Ouje-Bougamou, then under construction, which was to accommodate several hundred persons. Today, the population of these communities represents very strong purchasing power (*ibid.*). Many merchants have understood this, and some of them have even enrolled in Cree-language courses because they know the importance of satisfying this special clientele.

At Mashteuiatsh, in the Lac Saint-Jean region, a study conducted a few years ago at the request of the band council revealed that nearly 80 per cent of purchases were made outside the Amerindian community. Alain Nepton, a Mash-teuiatsh council member, said in an interview that the Amerindians were fuelling the economy. And whereas many people were concerned about the fact that the outlying regions were becoming deserted, the Aboriginal populations, with a birth rate that was generally twice as high as the Quebec average, certainly seemed to be there to stay.

The little chapel in Wendake

Photo: Pierre Lépage



We must point out the appreciable contribution of certain communities like Wendake, near Quebec City, whose companies employed nearly 400 non-Aboriginal workers in the mid-'90s (Forum paritaire 1993). This was also the case in Les

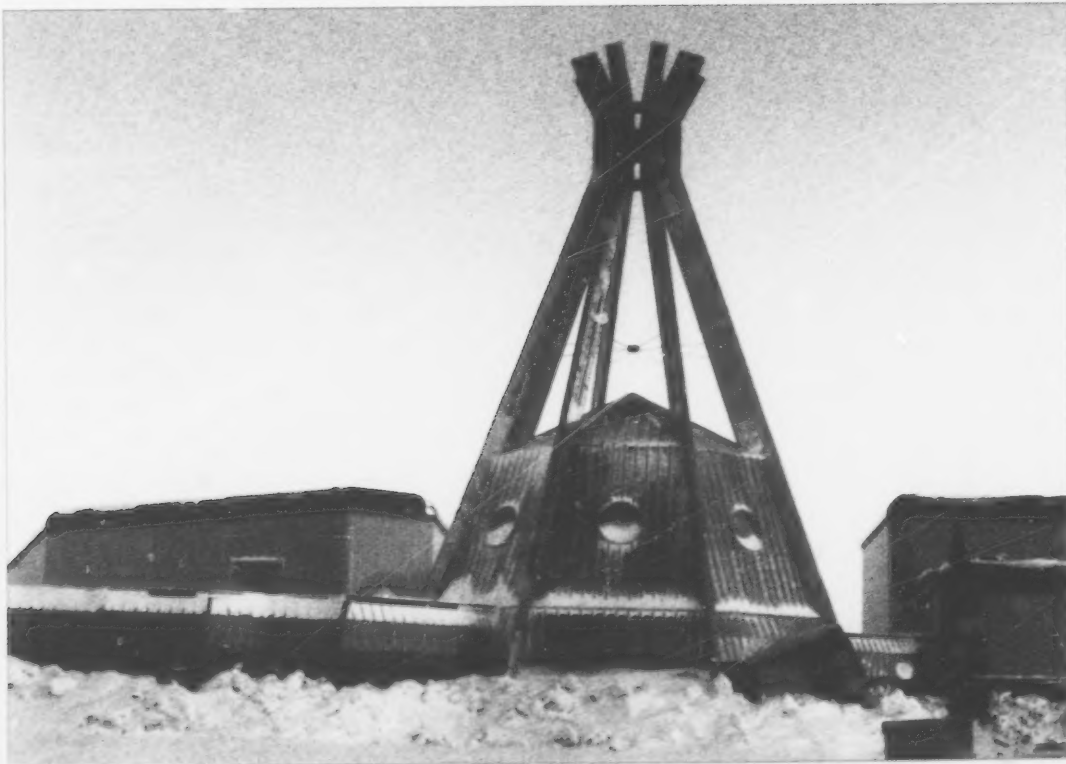
Escoumins, where the small Montagnais community of Essipit has become the principal job creator in the region. Half of its 160 jobs are held by people from surrounding communities.

It is well known that Aboriginal communities have taken charge of their affairs in several fields. This could lead to the belief that non-Aboriginals have lost jobs, but this is far from the case. In education, for example, the Montagnais Cultural and Educational Institute noted that in the communities it served Aboriginal teachers had more jobs—but only at the preschool and primary levels. At the secondary levels, non-Aboriginals held 100 per cent of the teaching positions.

These few examples clearly demonstrate the inevitable interdependence that exists between Aboriginal communities and the surrounding communities.

Traditional and modern architecture exist alongside each other in Cree communities.

Photo: Michèle Morel



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At the beginning of the 1950s, the beaver was re-introduced to certain regions of Quebec from which it had virtually disappeared. Here, naturalists capture beavers with the aid of two Amerindians. From the Abitibi region, the beavers would be transported by air to other regions. The operation proved successful, as did the establishment of the hunting preserves for fur-bearing animals that are commonly known as "beaver preserves."

Photo: Jos. Morin,
Archives nationales
du Québec, Quebec City



Chapter 7

LEARNING ABOUT NATIONS

ELEVEN DIVERSE NATIONS

Quebec has 11 Aboriginal nations that are divided into 54 communities varying in size from a few hundred to a few thousand inhabitants. These communities are located in very diverse surroundings: some are near large urban centres and others are accessible only by logging roads, airplane or boat.

These 11 nations belong to three language and cultural families. The Inuit are part of the Eskaleut family, the Kanien'kehaka (Mohawk) and the Huron-Wendat belong to the traditionally sedentary Iroquoian family, and the eight other nations are part of the traditionally nomadic Algonquin family.

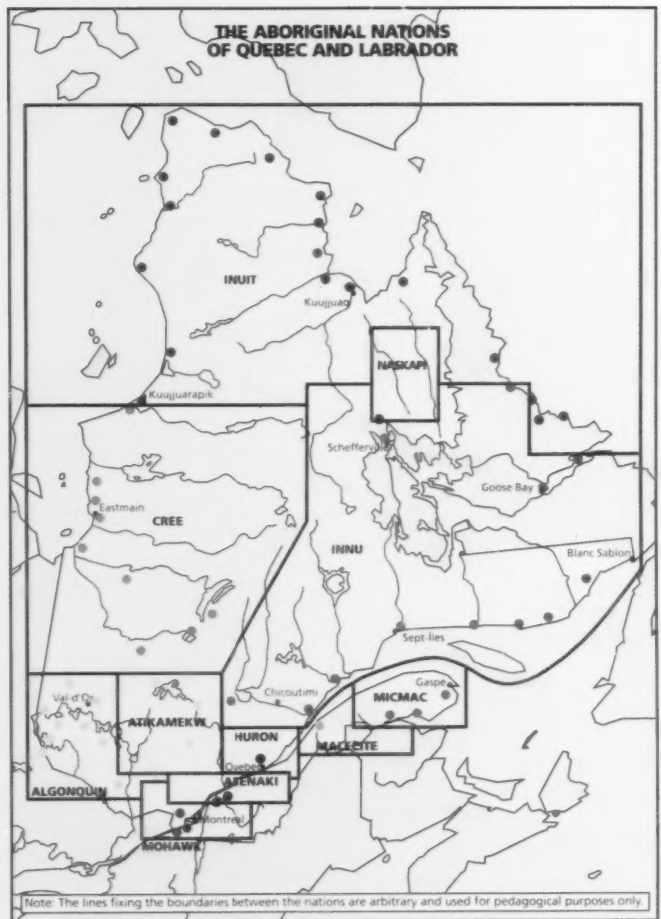
Diversity is the essence of the Aboriginal reality in Quebec, and this manifests itself in several ways, including language, traditions, lifestyles, and beliefs, and it forms the basis of the identity that is specific to each nation. Most Amerindians and Inuit define themselves by their nationhood: before being Aboriginal peoples, they are Innu, Atikamekw, Micmac, Huron, Kanien'kehaka (Mohawk), Inuit, and so on.

THE WABAN-AKI (ABENAKI) THE PEOPLE OF THE RISING SUN

The Abenaki originated from New England, where some of their descendants still live. Beginning in 1675, a number of Abenaki took refuge in the St. Lawrence Valley because of their numerous conflicts with the American colonies. They settled in the Quebec City region before locating along the Saint-François and Bécancour rivers. The Abenaki subsisted partly on agriculture, but hunting and fishing occupied a very important place in their way of life.

Jean-Paul Nolet, who marked the beginnings of the Radio-Canada French-language television network, was a proud Abenaki from Odanak. In 1975, he also became the first Amerindian commissioner named to the Commission des droits de la personne du Québec.

Photo: CDPD



With the decline of hunting in the 19th century, the Abenaki developed their handicrafts on a large scale. Basketwork, in particular, brought them considerable income until the 1930s.

Today, the Abenaki live in a semi-urban environment and still engage in making handicrafts and sewing. Since 1986, they have been represented by the Grand Council of the Wabanaki Nation.



Annette Nolet of Odanak is a seamstress by trade. At times, however, she devotes herself to weaving baskets out of ash, a tradition that has been handed down from her mother and her grandmother.

Photo: Michel Gauthier

THE MAMIWINNIK (ALGONQUIN) THE PEOPLE OF THE LAND

The Algonquin traditionally lived by hunting, fishing, and gathering. Their territory extended from the Ottawa River basin to the northern boundaries of the Abitibi region. As of the 19th century, settlement and forest-industry development considerably hampered their way of life. They began to settle in communities with the creation of the first reserves on Algonquin territory in the 1850s, and this continued up to the 20th century, in particular with the opening of the Abitibi region to settlement.

Today, the Algonquin are active in reforestation, trapping and handicrafts. Many of them still hunt and fish. Certain families even live a nomadic existence akin to that of their ancestors. There are two Algonquin communities in Ontario, but the majority of Algonquin live in Quebec and are represented politically by the Algonquin-Anishnabeg Nation Council and the Algonquin Nation Programs and Services Secretariat.

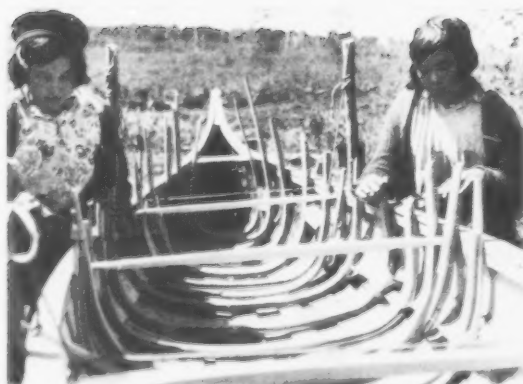


Photo: La Presse (reproduction: MTC, 1997)

THE ATIKAMEKW THE PEOPLE OF THE BARK

The territory of the Atikamekw is located in the northern part of the Saint-Maurice River basin. In years gone by, the nomadic Atikamekw lived by hunting, fishing and gathering. Their move to settlements, which began slowly in the early 20th century, resulted in large part from forest-industry development in the Saint-Maurice River basin.

Today, the Atikamekw are very active in the sector of reforestation and silviculture. The relatively isolated Atikamekw communities are accessible by logging roads. Despite major changes in their lifestyle, the Atikamekw are still very attached to traditional life: many families regularly return to the



Young Atikamekw girl building a bark canoe, Manouane, 1997

Today, the Abenaki live in a semi-urban environment and still engage in making handicrafts and sewing. Since 1986, they have been represented by the Grand Council of the Wabanaki Nation.



Annette Nolet of Odanak is a seamstress by trade. At times, however, she devotes herself to weaving baskets out of ash, a tradition that has been handed down from her mother and her grandmother.

Photo: Pierre Lepage

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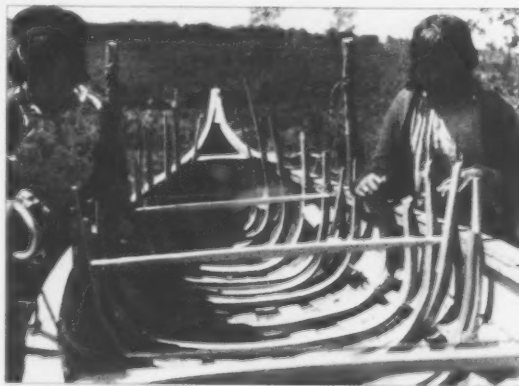
Photo: Claudette Fontaine, MEQ collection

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Young Atikamekw girls building a bark canoe, Manouane, 1953.

Photo: D.F.G., Archives nationales du Québec, Québec City

forest to hunt, trap, fish, and gather. The Atikamekw are represented by the Atikamekw Nation Council.

THE NITUUHUIYUUCH (CREE) THE PEOPLE OF THE HUNT

In the past, the Cree lived by hunting, fishing, and gathering. Their territory, located east of James and Hudson bays, was long sheltered from industrial expansion. However, the 1970s, which were marked by the James Bay hydroelectric mega-developments, were decisive for the Cree. Their opposition to the projects forced the Canadian and Quebec governments to negotiate with them.

In 1975, the Cree signed the *James Bay and Northern Québec Agreement*, which granted them compensation and specific rights over vast territories on which the Cree could pursue the hunting, fishing and trapping activities that formed a large part of their culture and economy. The Cree are represented by the Grand Council of the Crees of Iiyuu Istchee, and today the Cree live in modern communities. Their nation experienced strong economic development after the 1975 agreement was signed.



An important
Cree rite of passage:
the walking-out ceremony.

Photo: Claudette Fontaine, MEQ collection

THE HURON-WENDAT THE PEOPLE OF TRADE



Engraving: *L'Opinion publique*, collection of Pierre Lepage

At the beginning of the 17th century, the Huron were living southeast of Lake Huron. They were a sedentary tribe that practised agriculture, but they nonetheless devoted a number of weeks a year to hunting and fishing. In 1650, the period of the Iroquois wars, approximately 500 Huron-Wendat settled near Quebec City, a region they had frequently visited for trade. They relocated a few times before settling in Wendake, in 1697. Hunting then became more important to the Huron, who hunted several months per year, primarily in the territories located between the Saguenay and the Saint-Maurice rivers.

In the 19th century, with the gradual shrinking of their hunting grounds, the Huron increasingly developed and marketed their handicrafts. These products have played a major role in their economy ever since. Today, the Huron form one of the most prosperous Amerindian communities in Quebec. They are represented by the Huron-Wendat Nation Council.

INDIAN AND INUIT POPULATIONS IN QUEBEC

2001

Nation	Total	Nation	Total
ABENAKI		HURON-WENDAT	
Odanak	1 774	Owenake	2 881
Wolinak	211		
Total	1 985	MALECITE	
		Cacouna and Whitworth	683
ALGONQUIN		MICMAC	
Eagle Village-Kipawa	624	Gaspé	474
Grand Lac Victoria	345	Gaspé/parag	1 106
Wolf Lake	237	Lynx/uj	3 026
Kingan Zibi	2 437	Total	4 606
Lac Simon	1 337		
Piogan	770	MOHAWK	
Rapit Lake	576	Akwesasne	4 727
Timiskaming	1 511	in Quebec only	8 888
Winneway	634	Kahnawake	1 943
Total	8 471	Kanesatake	15 558
		Total	
ATIKAMEKW			
Manawan	1 931	INNU (MONTAGNAIS)	
Obedjiwan	2 050	Betsiamites	3 147
Wemotaci	1 347	Essart	382
Total	5 328	La Romaine	913
		Mashféuatsi	4 555
CREE		Mattamooksh	771
Chisasibi	3 299	Mingan	463
Eastmain	579	Nataashquan	819
Mistissini	2 876	Révis Shipi	259
Nemiskau	599	Uchat and/Malintenan	3 183
Oujé-Bougouillon	655	Total	14 492
Waskaganish	2 044		
Wawwanipi	1 556	NASKAPI	
Wemindji	1 776	Kayayachikamach	787
Whapmagoostee	747		
Total	13 350		

GENERAL LIST Registered Indians that identified with a nation

119

REGISTERED INDIANS

68 440

Nation	Total	Nation	Total
INUIT			
Akuliak	474	Amurmiq	1 525
Qupila	153	Amurmiq/uk	566
Chisasibi	109	Amurmiq/uk	1 727
Inukjuak	1 247	Quamit	326
Qupik	279	Qupik	1 048
Kahimaukumuk	697	Quamit	251
Kamapikamuk	537	Quamit	253
Kahimauk	454	Total	3 397

Grand total

77 837

INDIAN AND INUIT POPULATIONS IN QUEBEC

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Waswanipi	1 556	NASKAPI	
Wemindji	1 776	Kawawachikamach	787
Whapmagoostui	747		
Total	13 350		
GENERAL LIST Registered Indians not associated with a nation			119
REGISTERED INDIANS			68 440

Nation	Total	Nation	Total
INUIT			
Akulivik	474	Kuujuaq	1 625
Aupaluk	153	Kuujuarapik	566
Chisasibi	109	Puvirnitug	1 321
Inukjuak	1 247	Quaqtaq	326
Ivujivik	279	Salluit	1 035
Kangiqsualujuaq	697	Tasiujaq	221
Kangiqsujaq	537	Umiujaq	353
Kangirsuk	454	Total	9 397

Indian Register Indian and Northern Affairs Canada (INAC), 21 December 2000 and Register des bénéficiaires des droits des Inuits et des Naskapis (Register of Cree, Inuit and Naskapi Beneficiaries of the James Bay and Northern Quebec Agreement and the Northwest and Quebec Agreements) Ministère de la Santé et des Services Sociaux (Quebec), 2 April 2001

THE INUIT
THE PEOPLE OF THE NORTH

The Inuit inhabit the most northerly lands of Quebec and are related to the Aboriginal peoples in the circumpolar territories of the North. Before they settled in communities, in the second half of the 20th century, the Inuit lived primarily by hunting marine mammals, such as seals, walruses, and belugas, and by hunting caribou, which they tracked during their annual migrations.

The Inuit have never been subject to the *Indian Act*, and their villages have a status that is comparable to that of a municipality. In 1975, they signed the *James Bay and Northern Québec Agreement*. Several institutions were established as a result of this agreement, including the Kativik Regional Government, which coordinates the management of all northern municipalities. Since 1994, the Inuit have been negotiating with the Quebec and Canadian governments for the establishment of a non-ethnic regional government in Nunavik.

THE WULUST'AGOOGA'WIKS (MALECITE)
THE PEOPLE OF THE BEAUTIFUL RIVER

The Malecite traditionally occupied the lands located along the Saint John River, in New Brunswick, but some of them also made seasonal visits to the lands of the Lower St. Lawrence. At the beginning of the 19th century, a small community was established near Rivière-du-Loup, on the Viger reserve, where for a few decades the Malecite maintained their traditional way of life, combining agriculture with hunting and fishing.

in the first half of the 20th century, the Malecite integrated quickly into the surrounding Francophone population, and many lost their status as registered Indians. Since 1985, as a result of Bill C-31, which remedied some of the discriminatory measures of the *Indian Act*, many Malecite have regained their Indian status. Today, most Malecite live in New Brunswick. The Malecite of Quebec are part of the Malecite First Nation of Viger.

Title: Indian Reserve, La Pointe, Rivière du Loup, about 1930.

Photo: Postcard, P. Thibault, editor, collection of Pierre Lépage

Title: Indian Reserve, La
Pointe, Rivière du Loup,
about 1930.

Photo: Postcard, P. Thibault, editor;
collection of Pierre Lepage



Photo: Tourisme Québec, Heiko Wittenborn



THE MIG'MAQ (MICMAC) THE PEOPLE OF THE SEA

The Micmac traditionally lived by hunting, fishing and gathering. Their ancestral territory covered the southeastern portion of the Gaspé peninsula, Nova Scotia, Prince Edward Island,

much of New Brunswick, and southern Newfoundland. Micmac hunters and fishers also journeyed to Anticosti Island and occasionally the shore of the North Coast and the Magdalen Islands.



Photo: Felix Atencio, MEQ collection

Starting in the 18th century, settlement progressively restricted the hunting grounds of the Micmac, who became less nomadic and turned toward other activities to ensure their survival (handicrafts, forestry work, and so on). Today, the majority of Micmac live in the Maritime provinces. The Micmac of Quebec are divided into three communities and represented by three band councils. The forest industry, construction, tourism, handicrafts, and services related to sport fishing and hunting are their principal economic activities.

THE KANIEH'KEHAKA (MOHAWK) THE PEOPLE OF THE FLINT

The Kanien'kehaka (Mohawk) belong to the Five Iroquois Nations, which have territories in the state of New York, Quebec, and Ontario. They were traditionally a sedentary tribe that practised agriculture. However, hunting and fishing remained major subsistence activities. The

hunting grounds of the Kanien'kehaka extended to the south of the St. Lawrence River, where some of

this tribe settled as of the 1660s, giving rise to three communities: Kahnawake, Kanesatake and Akwesasne.

A troupe of Mohawk dancers from Kahnawake at the annual Présence Autochtone Festival in Montreal.

Photo: Jean-Yves Fontaine



work on construction sites, where their talents for high-construction work have earned them an excellent reputation. Today, the Kanien'kehaka form the most populous Amerindian nation in Quebec. They live in urban and semi-urban environments. Represented by three different band councils and by traditional councils, the Kanien'kehaka maintain ties with the other Iroquois nations.

THE INNU (MONTAGNAIS) THE IMMENSITY OF A TERRITORY

The Innu were nomadic, depending on the products of hunting, fishing, and gathering for their subsistence. Their ancestral territory covered the entire region between Quebec City and Labrador and extended north of Schefferville. At the end of the 19th century, settlement and the forest industry led the Innu living in the South to become increasingly sedentary. More to the north, the process really did not begin until the 20th century and even, in certain cases, until after 1950.

Today, the Innu are actively developing tourism and natural resource management on their territory: their salmon rivers are among the most beautiful in the world. In the most northerly Innu communities, hunting and trapping are still important activities. Two political organizations now represent the Innu: Mamit Innuat and Mamuitun.



Jos Collar of Betsiamites portages
250-pound loads, about 1940.

Photo: Paul Provencher,
Archives nationales du Québec, Québec City

THE NASKAPI IN THE HEART OF CARIBOU COUNTRY

The Naskapi nation has a single community, Kawawachikamach, in northeastern Quebec. Culturally very close to the Innu and the Cree, the Naskapi formerly lived by hunting and fishing. Every year, they covered territories extending from the coast of Labrador to James Bay, in pursuit of caribou herds. When the Naskapi settled in Schefferville in 1956 the process of the move to the sedentary life began.

The Naskapi have been developing adventure tourism and managing hunting and fishing outfitters for a few years. They are also active in road construction and maintenance. With the signing of the *Northeastern Québec Agreement* in

1978, the Naskapi acquired a high degree of administrative autonomy, as well as ownership rights over a 285-square-kilometre territory. They also have the use of a territory measuring 4,144 square kilometres for hunting, fishing, and trapping.

Bill C-31 Increases the Number of Registered Indians

We saw in chapter three that from its inception the ultimate objective of the *Indian Act* was enfranchisement—the loss of Indian status through emancipation. This act has meant a denial of identity for thousands of persons, especially Indian women who married non-Indians. This injustice was partially corrected,

in 1985, with the adoption of federal law C-31. Many persons and their descendants have been able to regain their Indian status and their association with Aboriginal communities. In only five years, the registered-Indian population has grown 19 per cent Canada-wide, and

this can be attributed to the change in the law (Canada, Commission royale 4, 1996, 38). It is estimated that the number of registered Indians in Quebec has grown by 9,000 for the same reason (Quebec, SAA, 1997, 8).



Johnny Piastute's
family gets ready
for the hunt,
about 1940

Photo: Paul Provencher,
Archives nationales
du Québec, Québec City

METIS AND NON-STATUS INDIANS

As well as registered Indians and Inuit, there are a large number of Metis and non-status Indians in Quebec. Persons of mixed (Aboriginal and non-Aboriginal) ancestry fall into the category of "Metis." Non-status Indians are Amerindian persons who are not registered under the terms of the *Indian Act*, either because their ancestors were never registered or because they lost their Indian status under former provisions of the act. The situation of these two groups is not widely known and their numbers may vary between 15,000 and 45,000 in Quebec (Quebec, SAA, 1998, 25).

As for Quebec's Metis, the final report of the Royal Commission on Aboriginal Peoples pointed out that their presence can no longer be ignored. During testimony before the commission, these people of mixed background pointed out that they should not be considered as being Amerindians living off the reserves any more than the Québécois should be considered as being Francophones living outside of France (Canada, Royal Commission 4, 1996, 291). Spokespersons for the Metis Nation organization in Quebec have insisted on the existence (in the physical sense) of their own communities, and have given as examples Ile du Grand Calumet, Fort Coulonge, Saint-Epiphanie, Otter Lake, Quyon, Mont-Laurier, Chicoutimi, Trois-Rivières, and les Escoumins (ibid., 292). This is something worth exploring further.

THE NUMBER OF REGISTERED INDIANS AND INUIT BY PLACE OF RESIDENCE

Nation	Population	Residents	Non-residents
Abenaki	1 985	18.7%	81.3%
Algonquin	8 471	58.2%	41.8%
Atikamekw	5 328	84.3%	15.7%
Cree	13 338	86.6%	13.4%
Huron-Wendat	2 881	42.3%	57.7%
Malecite	683	0.3%	99.7%
Micmac	4 606	52.5%	47.5%
Mohawk (not including Akwesasne)	10 831	78.1%	21.9%
Montagnais	14 492	71.0%	29.9%
Naskapi	581	93.3%	6.7%
Inuit	9 329	91.4%	8.6%
Total	72 525	72.7%	27.3%



Michelle Audette, president of the Quebec Native Women's Association, and her friend, Kathia Rork, both live in the city.

ABORIGINAL PEOPLES IN THE CITY

The number of persons of Aboriginal origin who are living in urban environments is becoming greater and greater. Some have simply chosen to make their homes in cities, but they remain Aboriginal persons who are aware and proud of their identity. Others are attracted by the cities because they offer employment opportunities that cannot be found in their communities. As the table above shows, for some nations a significant number of persons live outside of their communities.

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Source: Canada, Indian and Northern Affairs Canada: Indian and Inuit Populations of Quebec, 2001.



Michele Audette, president of the Quebec Native Women's Association, and her friend, Kathia Rock, both live in the city.

Photo: Pierre Lesage

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they remain Aboriginal persons who are aware and proud of their identity. Others are attracted by the cities because they offer employment opportunities that cannot be found in their communities. As the table above shows, for some nations a significant number of persons live outside of their communities.

There are a number of Aboriginal organizations that are well placed in the city. This is the case, for example, for the Atikamekw Sipi (the Atikamekw Nation Council), which is located in La Tuque. The Quebec Native Women's Association is based in Montreal. Waseskun House, a residential centre for Aboriginal persons who are in difficulty with the law, the Grand Council of the Crees, the Cree School Board, Makivik Corporation, the Kativik School Board, the Fédération des coopératives du Nouveau-Québec, and the Avataq Cultural Institute also have offices in the Montreal region.



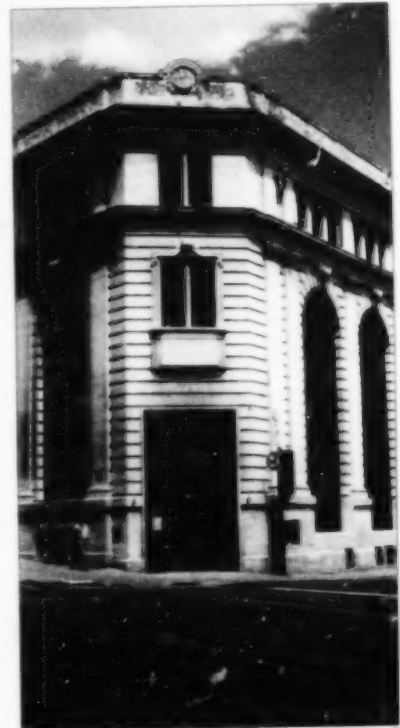
A group of Innu women at the Fête des Neiges, Ile Ste-Helene, Montreal, February 1998.

Photo: Pierre Lepage

There are a number of Aboriginal organizations in the Quebec City region as well, principally in Wendake: the offices of the secretariat of the Assembly of First Nations of Quebec and Labrador, the First Nations Education Council, the First Peoples' Business Association,

the Société touristique des autochtones du Québec, and the Société de communication atikamekw-montagnaise, are just a few of the ones that are located there.

The Native Friendship Centres play an essential role providing services to Aboriginal persons living in urban areas. La Tuque, Chibougamau, Senneterre, Val-d'Or, Loretteville, and Montreal all have one, and there will soon be one in Joliette. These are non-profit community organizations that offer a range of services, such as accommodation, references, social services, employment assistance, cultural and artistic activities, as well as many others. They are places where Aboriginal persons can get together and help each other. In Montreal alone, the directors of the Native Friendship Centre estimate that they reach 16,000 each year (Chaumel 1993, 10).



Montreal's Native Friendship Centre is located at the corner of Ontario and St. Laurent.

Photo: Pierre Lepage

FOR FURTHER INFORMATION

INUIT TAPIRISAT OF CANADA. *The Inuit of Canada*. Ottawa: Inuit Tapirisat of Canada, 1995. 32 p.

LA GRIFFE DE L'AIGLE, ed. *Le Québec autochtone. Guide touristique*. Wendake: 1996. 296 p.

NOËL, Michel. *Amérindiens et Inuits, Guide culturel et touristique du Québec*. Saint-Laurent: Trécaré, 1996. 239 p.

QUEBEC, SECRÉTARIAT AUX AFFAIRES AUTOCHTONES. *The Amerindians and Inuit in Today's Quebec*. Quebec: Government of Quebec, 1995. 26 p.



A gathering during
a lacrosse game
in Kahnawake.

Photo: A. Mailhot,
courtesy of the Geological
Survey of Canada

Chapter 8

COMMON INTERESTS

PAUL PROVENCHER, A PIONEER WHO WORKED TO BRING QUEBECERS AND ABORIGINAL PEOPLES TOGETHER

In 1943, forest engineer Paul Provencher was responsible for teaching forest survival techniques to Canadian army commandos. In the photographs below, he is teaching two Amerindian techniques: ice fishing and setting up camp.

In 1925, when he was still a student, Paul Provencher travelled throughout the Témiscamingue region with surveyors. He described all sorts of extraordinary adventures that he had in the company of his Huron guides, the Siouis of Lorette (Provencher and La Rocque 1976). He obtained his forestry degree in the same year. After surveying the Saint-Maurice River basin extensively, Provencher was entrusted, in 1929, with preparing inventories of the forests of several North Shore hydrographic basins, including the Manicouagan River basin (*ibid.*). During his expeditions, he met the Montagnais, with whom he made friends and for whom he would maintain deep respect. At a

time marked by policies of assimilation and the marginalization of the Amerindian nations, Paul Provencher was a



Joseph Benoit initiates forestry engineer Paul Provencher to the basics of the Montagnais language in about 1940.

Photo: Paul Provencher, Archives nationales du Québec, Québec City



Photo: Paul Provencher, Archives nationales du Québec, Québec City

pioneer who genuinely sought rapprochement between Quebecers and Aboriginal peoples. Equipped with a motion-picture camera and a still camera, "Utshimau-Paul," as Paul Provencher was nicknamed by the Montagnais, brought back touching pictures of the people he spent time with and the families that extended him their hospitality. His accounts are an important testimony to his love of the Amerindians and life in the forest. Paul Provencher bequeathed remarkable photographs and archival films, some of which were used by the film producer Jean-Claude Labrecque in the film entitled *Les Montagnais* (Vidéodio 1979).



Photo: Paul Provencher, Archives nationales du Québec, Québec City

THE KAHNAWAKE CAISSE POPULAIRE

Successful Collaboration Between Mohawks and Quebecers

[TRANSLATION] "Not very often do we hear of successful collaboration between Mohawks and Quebecers. But when creativity and understanding are the order of the day, almost anything becomes possible. This is one of the lessons we can learn from our experience with the caisse populaire in Kahnawake" (Rice 1994).



Photo: Pierre Lepage

The Economic Situation in 1994

Michael L. Rice is a founding member and the current manager of the Caisse populaire of Kahnawake. In an article published in *Relations* in 1994, he summarized the economic situation in his community as follows:

"Kahnawake is a Mohawk reserve located on the south shore of Montreal. It covers an area of a little over 55 square kilometres. The population on the reserve is 6,000, and the average

family income is approximately \$30,000. There are 200 businesses on the reserve, primarily in the service and construction sectors, which employ up to 300 persons full time and 400 others part time or for seasonal work. However, Kahnawake's principal employer is still the public sector, with 375 jobs. Unemployment varies from 30 per cent in the summer to 50 per cent in the winter. In comparison with the other Amerindian communities in Canada, Kahnawake is considered to be relatively prosperous.

"Up to 1987, our community operated without its own financial institution. Of course, there was a demand for savings and credit services from consumers, institutions and businesses. And these needs were to a certain extent met by the banks in neighbouring communities. But we estimated that less than 10 per cent of the money circulating in Kahnawake was being reinvested in the community. Many banks, ignorant of our laws and customs, were hesitant or ill-equipped to meet the needs of our people. In addition, it was extremely frustrating to try to obtain government funds for business development and to be obliged to write a full-blown thesis in order to apply.

"We needed a source of financing, so the Mohawk Council of Kahnawake decided to establish an Aboriginal financial institution. As a result, the Caisse populaire of Kahnawake opened in 1987. Today it has become the largest of the six Aboriginal caisses affiliated with the Mouvement Desjardins. In addition, after the Peace Hills Trust of Hobbema, Alberta, it is probably the largest Aboriginal financial institution in Canada..." (Rice 1994).

The "Kahnawake Model"

Michael Rice points out that when the caisse was established there was an immediate impact on the community's economic development. But the institution was also notable because of the Amerindian fiduciary system that it created in order to bypass obstacles in the *Indian Act*.

"Section 89 of the Indian Act prohibits subjecting any real and personal property of an Indian with a charge (mortgage, pledge, guarantee, etc.) held by a non-Indian. Thus, it is impossible for an Indian to give his house, his land or any other similar property as security to his bank or *caisse populaire* in order to obtain a loan. However, nothing prohibits an Indian from giving such property as security to another Indian. This principle is the basis of the 'Kahnawake model.'"

According to the model, an Amerindian trust composed of three respected persons in the community serves as an intermediary between the Amerindian borrower and the non- Amerindian lender (the *caisse populaire*); in accordance with this principle, the security is provided by a third party. However, since the third party is not a government (federal, provincial or band council), responsibility for loan repayment is placed on the shoulders of the actual borrower.

Tangible Results

The manager of the Kahnawake *caisse* considers that the organization of this financial institution has given the whole community a greater sense of political autonomy. In addition, he states that the trust system has given the community greater responsibility in the management of its territory, which represents a first step toward the federal government's

withdrawal. Moreover, the economic impact of the *caisse* is considerable, in that almost all commercial loans, two-thirds of mortgage loans and over half of personal loans granted by the *caisse* would undoubtedly not have been granted by outside financial institutions. The *caisse's* loan portfolio, evaluated at \$16 million, has resulted in a net injection of over \$10 million into the community.

When asked why a *caisse populaire* was chosen over a bank, the manager replied that the cooperative structure of ownership and control, which was more democratic and closer to the community's cultural values, as well as the tax benefits offered at *caisses*, were largely responsible for the choice. The initiative provides a concrete example of cooperation that benefits both Mohawks and Quebecers.

ENVIRONMENTAL PROTECTION: A SHARED CONCERN

[TRANSLATION] "The *James Bay and Northern Québec Agreement* marked the awakening of concern for the environment in Quebec.

"If, in 10 years, the James Bay territory has become the most studied and the best-known region of Quebec and Canada, it is primarily because those initial groups of environmentalists and the Aboriginal peoples worked together for the first time to demand respect for the environment and Aboriginal rights. Thus did the environmental history of the James Bay region mark the environmental history of Quebec."



Cree visit the James Bay hydroelectric complex. The word "visitors" on their safety helmets is somewhat ironic.

Photo: Pierre Trudel

(Lacasse 1983, 511)

(*Relations* April 1994, no. 599)

AT LES ESCOUMINS, MONTAGNAIS AND QUEBECERS WORK TOGETHER FOR A COMMON CAUSE

With Peace, Salmon Return

[TRANSLATION] "At first glance, the small municipality of Les Escoumins has nothing out of the ordinary to offer other than its quintessential North Shore landscape. A few signs show the location of the ferry, which is reached by going through the Montagnais neighbourhood. However, Les Escoumins was the site of events that could inspire those seeking to patch up relations between Whites and Amerindians. Whereas elsewhere there was still strife and claims bore the scent of contraband and intolerance, the population of Les Escoumins showed that agreement was possible and profitable if both parties believed in a common cause. Here, that common cause was the Atlantic salmon.

"Trivial, you say? Certainly not. But it was definitely surprising. For those who took the slightest interest in the news in the early 80s, the salmon of Les Escoumins bring back bad memories. It was a time of police involvement, nets stretched across the river to mark defiance and fists held up as a sign of distrust. White and Indian communities each claimed precedence over fishing, but they weren't willing to listen to one another. But if no solution to the problem could be found, years of effort devoted to reintroducing the king of fish into the river were going to be lost. At a time of recreation and ecotourism, as well as endemic unemployment, the loss would have been irreparable. A solution had to be found.

"So people began to talk to one another and to consider a working arrangement. In 1991, discussions led to the creation of a bipartite committee composed of an equal number of representatives of the band council and the municipality. Co-chaired by one delegate from each group, the committee learned the ropes and gradually became a *bona fide* management corporation. In view of the previous climate of confrontation, the fact that the two parties succeeded in talking about accommodation was a quiet revolution. This was the step. At the same time, negotiations had to be pursued with the river because the river had not yet been won over.

"Insurmountable dams, low water in the summer, log drives. The Rivière des Escoumins was beautiful, but not very kind to salmon. The proponents of its revitalization stocked it, modernized an old dam, constructed a salmon ladder to facilitate upriver migration, and eliminated poaching. A fish farm was even set up to control the quality of the fry. However, all these initiatives required considerable expenditures for a small municipality. The Ministère du Loisir, de la Chasse et de la Pêche of Quebec had helped at the outset, but major assistance was obtained in 1992 from the Programme de développement économique du saumon (PDÉS), created by the two governments to support the most deserving local initiatives in Quebec. Over one million dollars is currently invested to maintain the river at regular levels and facilitate the circulation of salmon.

"In August 1992, sport fishing was cautiously resumed on the Rivière des Escoumins, and development should intensify this summer. History does not say whether it was a Montagnais or a White who boasted the first catch. However, it does say that economic benefits are coming and that the social benefits have already been seen. Today, the only murmurs are coming from the river—a sign of its new-found vitality and harmony."

Rene Vezina
on behalf of the **Fédération** quebecoise
pour le saumon atlantique

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THE FORUM PARITAIRE QUÉBÉCOIS-AUTOCHTONE

Living Together in Mutual Respect

Between 1991 and 1993, a focus group composed of representatives of unions, religious movements, co-operatives, social movements, and Aboriginal peoples gave itself the mandate of trying to bring together Quebecers and Aboriginal peoples. The twenty or so participants of this Forum set themselves the objectives of determining and highlighting where the aspirations of the two groups converged and of identifying where they diverged—and of seeking ways to overcome these divergences. Approximately fifteen formal meetings were held. During the fall of 1993, the focus group adopted and distributed a manifesto entitled the "Manifeste concernant l'avenir des relations entre les Autochtones et les Québécois" that identified points of divergences but which also highlighted several areas of rapprochement. In an article published in the *Revue Notre-Dame*, René Boudreault, co-moderator of the Forum, underscored several points, including the following:

- Quebec and the Aboriginal nations are seeking acknowledgement of collective and even national rights. They are seeking more autonomy in the management of their affairs. Recognition as peoples and acknowledgement of the right to self-determination dominate the political landscape.
- The settlement of Aboriginal land claims is conducive to social peace and economic development. Having neighbours who are developing their economies are certainly preferable to having neighbours who are living in poverty.
- The movement to decentralize decision-making power, which is primarily desired by the regions of Quebec, is also of interest to Aboriginal peoples.
- The sacred notion of the indivisibility of the territory of Quebec is not necessarily incompatible with the rights of Aboriginal peoples. Accommodation is possible to the extent that the exercise of Aboriginal sovereignty does not necessarily run counter to the sovereignty of the National Assembly or the Canadian legal system.
- Aboriginal economic development and the improvement of Aboriginal peoples' standards of living are powerful assets for the promotion of regional development; Aboriginal economic development, especially in the recreation and tourism sector, is a major benefit.
- The fundamental values promoted by the environmental movement are consistent with the traditional philosophy of Aboriginal peoples.
- Aboriginal peoples require the expertise of Quebecers to spur development and train their own manpower. This situation is bringing about an exchange and a reciprocity that may be creative and lead to a positive new relationship (Boudreault 1995; 10-13).

The signatories of the *Manifeste* finished by emphasizing that they were invited by history and geography to take up the challenge of living together and come to an understanding of their relationship.

The signatories of the *Manifeste* were:

Gérard Drainville, *Assemblée des Évêques du Québec*; Jackie Kistabish, *Quebec Native Women's Association*; Lorraine Pagé, Daniel Lachance and Henri Laberge, *Centrale de l'enseignement du Québec*; Julien Harvey, *Centre justice et foi*; Michel Doray and Claude Têtu, *Confédération des caisses Desjardins*; Gérald Larose, *Confederation of National Trade Unions*; René Simon and Arthur Robertson, *Conseil des Atikamekw et des Montagnais*; Denis Landry, *Grand conseil de la nation Waban-aki*; Diom Roméo Saganash, *Grand Council of the Crees of Quebec*; Gérald McKenzie and Sylvie Paquerot, *Ligue des droits et libertés*; Edith Cloutier, *Regroupement des centres d'amitié autochtones du Québec*; Bernard Cleary, *resource person*; Pierre Bonnet and René Boudreault, *moderators and coordinators* (Forum paritaire 1993).



Gerald Larose, then president of the Confederation of National Trade Unions (CNTU), and Diom Roméo Saganash, then vice-president of the Grand Council of the Crees of Quebec, at a press conference of the Forum paritaire québécois-autochtones, a discussion group made up of equal numbers of Aboriginal peoples and Quebecers whose goal was the creation of a true alliance between the two groups.

Photo: Alain Chagnon

THE COOPERATIVE MOVEMENT:

A JEWEL IN THE NUNAVIK ECONOMY

[TRANSLATION] "The Fédération des coopératives du Nouveau-Québec belongs to the thirteen affiliated cooperatives located in the Inuit villages found along the coasts of Hudson Bay and Ungava Bay in Northern Quebec, a region which today is also called Nunavik. The Fédération was founded in 1967 to provide the fast-growing cooperative movement with even more efficient methods and services with which to reach its goal of working collectively for the common good (*atautsikut*, meaning 'together'), without excluding anyone.

"The principal objective of the cooperatives is to bring the community together and to act in the common interest. Cooperatives are more than just stores, as their various profitable activities attest. They are:

- general stores offering a wide choice of merchandise at competitive prices; members often receive a rebate at the end of the year;
- banking services, post offices, and cable television;
- staff training and auditing services;
- marketing of Inuit art in Canada and worldwide;
- hotels, a travel agency, and adventure tourism;
- hunting and fishing outfitters;
- storage and distribution of petroleum products;
- construction of various buildings in Nunavik, including houses and schools.

"Cooperatives constitute the largest private employer in the region. The management experience and knowledge accumulated over the years by the all-Aboriginal personnel are of benefit to the entire community. The Nunavik cooperative movement's annual sales rose from \$1.1 million in 1969 to over \$75 million in 1999.



Photo: Tourisme Québec, Heiko Wittenborn

"These results clearly illustrate that a cooperative approach based on collective effort in order to ensure the development of all individuals in the community is an economically viable and socially equitable solution for the development of Nunavik."

PARTNERSHIP

[TRANSLATION] "The word 'partnership' involves giving up the power one has over the other."

(Statement made by Justice Jean-Charles Coutu, at the Conférence Henri-Capitant, April 1991)

Fédération des coopératives du Nouveau-Québec

(Source: Information brochure prepared by the Fédération des coopératives du Nouveau-Québec)

ABORIGINAL AND QUEBEC WOMEN FIGHT THE SAME BATTLE

Solidarity at the World March of Women Against Poverty and Violence Against Women

In Canada, in the mid 1970s, the situation of Aboriginal women who were losing their Indian status as a result of marrying non-Indian men was a focus of attention. Provisions allowing discrimination on the basis of gender persisted in the *Indian Act* despite the federal government's 1960 enactment of the *Canadian Declaration of Rights*. Women who had lost their Indian status were expelled from their communities. In an effort to mobilize, Indian women unsuccessfully challenged Canadian courts to invalidate the infamous section 12 (1) (b) of the *Indian Act* that permitted discrimination on the basis of gender. At the time, Aboriginal women could not rely on the support of band councils or Aboriginal political organizations.

Michèle Audette, president of the Quebec Native Women's Association, and activist Madeleine Parent, "a great friend of Aboriginal women," photographed during the World March of Women Against Poverty and Violence.

Photo: Michèle Audette



At the same time, solidarity developed between Aboriginal and Quebec women. Thérèse Casgrain had become a staunch ally of Mary Two-Axe Early, an Amerindian from Kahnawake, who was a militant in the organization called Indian Rights for Indian Women. A former president of the *Fédération des femmes du Québec*, Ghislaine Patry-Buisson, remembers the birth of this solidarity at the first United Nations Conference on Women's Rights in Mexico City in 1975. Mary Two-Axe Early was a member of the delegation of Canadian women to the Women's Forum, a parallel forum attended by women from non-governmental organizations. Her participation in Mexico City, supported by the women of Canada, was particularly powerful.

This was the context in which the Quebec Native Women's Association was formed in 1974. The association created important links with the *Fédération des femmes du Québec* and developed a solidarity with it that has never wavered. When the Quebec Native Women's Association dared to break the code of silence and denounce the violence and abuse occurring in many Aboriginal communities, they again had the support of the women's movement. At the Year 2000 March Against Poverty and Violence Against Women, Aboriginal and Quebec women marched side by side in solidarity, proud of the gains they had made.



Photo: Michèle Audette

SUSTAINABLE DEVELOPMENT: OUR COMMON FUTURE

A Lesson Learned From the Brundtland Commission

The Brundtland Commission Report states that particular attention must be paid to tribal peoples and Aboriginal populations as the forces of economic development disturb their traditional ways of life—ways of life that could teach useful lessons to modern societies regarding the management of the resources present in the complex ecosystems of forests, mountains, and deserts. The report states that some of these populations are threatened with extinction by development that is indifferent toward them and over which they have no control. Their traditional rights must be recognized, and these populations must be able to play a decisive role in drafting policies pertaining to the development of their territory.

(World Commission on Environment and Development 1987)

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Photo: Claudette Fontaine,
MEQ collection



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